CHAPTER 9

Public Peace, Morals and Welfare

ARTICLE 9-4

Government and Public Officers

Sec. 9-4-10. Definitions.

(a) A police officer is *acting under color of his or her official authority* when, in the course of his or her duties, he or she is called upon to make or does in fact make a good-faith judgment based on surrounding facts and circumstances that an arrest should be made. It is no defense to a prosecution under this Article that the arrest was unlawful if the police officer was acting under color of his or her authority and did not use unreasonable or excessive force in effecting the arrest.

(b) The term *police officer,* as used in this Article, means any person defined as a peace officer by state law who is in uniform or who has displayed his or her credentials to the person whose arrest is attempted.

(c) *Uniform*, as used in this Article, refers to the dress or apparel and insignia required to be worn by a police officer's agency or department and intended as a means of identifying the officers and agents of the department or agency.

(d) *Code Enforcement Officer* means any City employee, employees of other governmental agencies acting for and on behalf of the City pursuant to an intergovernmental agreement or a person employed under an independent contract by the City as provided by the laws of the City and who is appointed by the City Manager to enforce the laws of the City. (Prior code §7-452(2), (3), (4); Ord. 878 §1(part), 1976; Ord. 1589, 1999; Ord. 1894 §1, 2006; Ord. 1932 §1, 2008)

Sec. 9-4-20. Threatening City employee or public official.

It is unlawful for any person to communicate threats of violence, reprisal or any other injurious act to any police officer, fireman, City employee or other public official who is engaged in the performance of his or her official duties. (Prior code §7-451(2); Ord. 878 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-4-30. Interference with public official.

(a) It is unlawful for any person to knowingly resist, interfere with, impede or obstruct any peace officer, firefighter, emergency medical service provider, rescue specialist, City employee or other public official acting under color of his or her official authority, or the administration of emergency care or emergency assistance by a volunteer acting in good faith to render such care or assistance without compensation at the place of an emergency or accident.

(b) For purposes of this Section, unless the context otherwise requires:

Emergency medical service provider means a member of a public or private emergency medical service agency, whether that person is a volunteer or receives compensation for services rendered as such an emergency medical service provider.

Rescue specialist means a member of a public or private rescue agency, whether that person is a volunteer or receives compensation for services rendered as such a rescue specialist. (Ord. 1932 §1, 2008)

Sec. 9-4-40. Interfering with arresting police officer.

It is unlawful for any person to prevent or attempt to prevent a police officer acting under color of his or her official authority from effecting an arrest of the actor or another by the use or threatened use of force or physical violence; any other means which creates a substantial risk of causing physical injury to the police officer; or fleeing from the police officer after having been ordered to stop in a manner that would indicate to a reasonable person that the police officer was ordering such person to stop. (Ord. 1932 §1, 2008)

Sec. 9-4-50. Escaping or aiding in escape from custody.

It is unlawful for any person to escape or attempt to escape from, in any manner aid another who is in the custody of a police officer to escape, or attempt to rescue or rescue a person from the custody of a police officer or from the custody of any person aiding such police officer after being commanded by such police officer not to do so. However, the provisions of this Section and Section 9-4-40 shall not apply whenever the escapee is being held on account of a felony or charged with any felony. (Prior code §7-452(5); Ord. 878 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-4-60. Assisting in escape.

It is unlawful to assist or aid any person in the custody of or confined under the authority of the City to escape from place of confinement or custody. (Prior code §7-431; Ord. 1589, 1999)

Sec. 9-4-70. False fire alarm unlawful.

It is unlawful for any person to intentionally make or give a false alarm of fire in this City. (Prior code §7-510; Ord. 1589, 1999)

Sec. 9-4-80. Obeying police officer or fireman.

It is unlawful for any person to knowingly disobey the lawful order of any police officer or fireman given incident to the discharge of the official duties of such police officer or fireman. (Prior code §7-453 (1); Ord. 878 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-4-90. Refusing to aid police officer.

It is unlawful for any person, upon command by a person known to him or her as a police officer, to unreasonably refuse to aid such police officer in effecting or securing an arrest, preventing the commission by another of any offense or coping with any emergency situation. (Prior code §7-453(2); Ord. 878 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-4-120. Aiding and abetting acts.

Every person who attempts to commit, conspires to commit or aids or abets in the commission of any act declared herein to be in violation of this Chapter, whether individually or in connection with one (1) or more other persons, or as a principal agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this Chapter is likewise guilty of such offense. (Ord. 1100 §1, 1982; Ord. 1589, 1999)

Sec. 9-4-130. False representation.

(a) It is unlawful for any person to falsely represent himself or herself to be a fire official, code enforcement officer or any other officer or employee of the City, or to attempt to impersonate any fire official, code enforcement officer or any other officer or employee of the City or, without authority, to perform any official act on behalf of a fire official, code enforcement officer or any other officer or employee of the City.

(b) A person *falsely represents or attempts to falsely represent himself or herself to be a fire official, code enforcement officer or any other officer or employee of the City* means:

(1) To wear or display the uniform, apparel, badge or any other insignia of office like, similar to or a colorable imitation of that used by fire officials, code enforcement officers or other City officers or employees; or

(2) To represent in any manner whatsoever to another that the person is a fire official, code enforcement officer or other City officer or employee.

(c) It is no defense to a prosecution under this Section that the office the actor falsely represented or attempted to falsely represent to hold did not in fact exist. (Ord. 1932 §1, 2008)

Sec. 9-4-140. False reporting to authorities.

(a) It is unlawful for any person to:

(1) Knowingly or negligently cause a false alarm of fire or other emergency to be sent to or within any fire district or department, an ambulance service or any government agency which deals with emergencies involving danger to life or property;

(2) Knowingly or negligently make a report or cause the transmission of a report to any police department of a crime or other incident within its official concern knowing that it did not occur;

(3) Knowingly or negligently make a report or purposely cause the transmission of a report to a law enforcement agency pretending to furnish information about an offense or other incident within its official concern when the person reporting has no such information or knows that the information is false;

(4) Knowingly or negligently gives or provides false or misleading information to any police officer, fire official, code enforcement officer or other officer or employee of the City who is acting in the person's official capacity and within the scope of the person's employment; or

(5) Knowingly provide false identifying information to law enforcement authorities.

(b) As used in this Section, *identifying information* means a person's name, address, birth date, social security number or driver's license or state identification number. (Ord. 1932 §1, 2008)

Sec. 9-4-150. Accessory to a violation.

(a) No person shall, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of a violation, render assistance to such person.

(b) *Render assistance* means to:

(1) Harbor or conceal the other:

(2) Warn such person of impending discovery or apprehension, but this does not apply to a warning given in an effort to bring such person into compliance with the law;

(3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;

(4) Obstruct, by force, intimidation or deception, anyone in the performance of any act if there is a reasonable probability that such act will aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person; or

(5) Conceal, destroy or alter any physical evidence if there is a reasonable probability that such evidence will aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person. (Ord. 1932 §1, 2008)

Sec. 9-4-160. Violation; penalty.

Every person found guilty of a violation of any provision of this Article shall be punished as provided by Article 1-24 of this Code. (Ord. 1932 §1, 2008)

Sec. 9-4-170. Code Enforcement Officers.

(a) There is hereby created the position of Code Enforcement Officer.

(b) A Code Enforcement Officer of the City shall be deemed a peace officer for the limited purpose of enforcing the laws of the City as provided by the laws of the City or the appointment by the City Manager.

(c) The duties of a Code Enforcement Officer shall be limited to the enforcement of the laws of the City as authorized or directed therein or as the City Manager may otherwise direct.

(d) A Code Enforcement Officer shall have the power to issue summonses and complaints for violations of the laws of the City, pursuant to Rule 204, Municipal Court Rules of Procedure.

(e) Nothing herein shall be deemed to grant a Code Enforcement Officer the authority to carry a firearm, concealed or otherwise, while engaged in the performance of his or her duties. (Ord. 1894 §2, 2006; Ord. 1932 §1, 2008)

Sec. 9-4-180. Sex offender registration and fee required.

(a) Each person who is required to register with the Brighton Police Department as a sexual offender by statute, ordinance, rule or regulation shall register with the Police Department by completing a registration form provided to such person by the Police Department and paying the applicable registration fee adopted by the City Council in the Annual Fee Resolution.

(b) Failure to fully and accurately complete the required registration form and timely file the same with the Police Department is a violation of this Section.

(c) Failure to pay the registration fee in full is a violation of this Section. (Ord. 1987 §1, 2009)

ARTICLE 9-8

Streets ands Public Places

Sec. 9-8-10. Definitions.

(a) As used in this Article, *park* shall mean a parcel of ground located within the City limits, specifically set apart for the recreational use of the public.

(b) As used in this Article, *park facility* shall mean those structures located in a park which aid or make easier the recreational use of the park. (Ord. 1543 §1(part), 1998; Ord. 1589, 1999)

Sec. 9-8-20. Denying use of school property.

(a) It is unlawful for any person on or near the premises or facilities of any educational institution to willfully deny to students, school officials, employees and invitees:

(1) Lawful freedom of movement on the premises;

(2) Lawful use of the property or facilities of such institution; or

(3) The right of lawful ingress and egress to the institution's physical facilities.

(b) It is unlawful for any person on the premises of any educational institution or at or in any building or other facility being used by any educational institution to willfully impede the staff or faculty of such institution in the lawful performance of their duties or willfully impede a student of such institution in the lawful pursuit of his or her educational activities by the use of restraint,

coercion or intimidation or when force or violence are present or threatened. (Prior code §7-243(l),(2); Ord. 876 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-8-30. Refusing or failing to leave educational institution.

It is unlawful for any person to willfully refuse or fail to leave the property of or any building or other facility used by any educational institution upon being requested to do by the chief administrative officer, his or her designees charged with maintaining order on the school premises and its facilities or a dean of such educational institution, if such person is committing, threatens to commit or instructs others to commit any act which would disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions of the institution. (Prior code §7-243(3); Ord. 876 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-8-40. Interpretation.

Nothing in Sections 8-20 and 9-8-30 shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, any contractor or subcontractor, or any employee thereof. (Prior code §7-243(4); Ord. 876 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-8-50. Conduct denying lawful use of public building.

(a) It is unlawful for any person to so conduct himself or herself at or in any public building owned, operated or controlled by the City, the State or any of its political subdivisions, including the school district, as to willfully deny to any public official, public employee or any invitee on such premises the lawful right of such official, employee or invitee to enter, use the facilities of or to leave any such public building.

(b) It is unlawful for any person at or in any such public building to willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, coercion or intimidation or by force and violence or threat thereof. (Prior code §7-244(l), (2); Ord. 876 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-8-60. Refusing or failing to leave public building.

It is unlawful for any person to willfully refuse or fail to leave any such public building upon being requested to do so by the chief administrative officer charged with maintaining order in such public building if such person has committed, is committing, threatens to commit or incites to commit any act which did or would, if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in such public building. (Prior code §7-244(3); Ord. 876 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-8-70. Impeding or disrupting certain meetings in public buildings.

It is unlawful for any person at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building to willfully impede, disrupt or hinder the normal proceedings of such meeting or session by any act or intrusion into the chambers or other areas designated for the use of the body or official conducting such meeting or session or by any act

designed to intimidate, coerce or hinder any member of such body or official engaged in the performance of duties of such meeting or mission. (Prior code §7-244(4); Ord. 876 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-8-80. Interfering with use of public way or place.

It is unlawful for any person to be upon any public way or any other place of public nature in such a manner as to willfully interfere with the free and unobstructed use of such public way or place of public nature by any other person. (Prior code §7-245; Ord. 876 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-8-90. Parks and park facilities rules and regulations.

The following rules and regulations shall apply to all parks and park facilities within the City, and it shall be unlawful for any person to violate any of these rules or regulations. As used in this Section, the terms *parks*, *park facilities* or *recreation facilities* include City-operated parks and recreation facilities and trails; and parks and recreation facilities and trails located within the corporate limits of the City and owned or operated by Brighton School District 27-J and/or the City, pursuant to any joint use agreement between the School District and the City. The purpose of this Section is to reasonably regulate the public use of such facilities in order to protect and preserve such facilities from damage, overuse or other unlawful or prohibited conduct.

(1) All parks shall be open from 5:00 a.m. to 10:00 p.m. daily. No person shall be in a park or park facility except during those hours unless as part of a program, activity or event organized and scheduled through the Parks and Recreation Department. Any group, association, organization, league or team, consisting of ten (10) or more individual participants or players, that desires to utilize a sports field or park facility for its activities shall first obtain a permit from the Parks and Recreation Department, shall properly reserve such park facility and shall schedule its activities through the Parks and Recreation Department according to City policy.

(2) No park or park facility shall be used for such activities as dunk tanks, hot air balloons, carnivals, catering services, festivals or other activities which require the use of tents, awnings or rented shelters unless:

a. A written request for such use is submitted to the Parks and Recreation Director and the Parks and Recreation Director has given written approval for such use;

b. The park, park facility or portion thereof has been properly reserved according to City policy;

c. The applicable reservation fee has been paid; and

d. A license (if required) has been properly applied for and issued.

(3) All persons using a park or park facility shall abide by any and all posted rules or guidelines pertaining to the park or facility, including but not limited to temporary signs or barricades related to maintenance, repair or temporary closure of the park or park facilities, or a portion thereof, for maintenance, repair or other improvements.

(4) No vehicles, including campers and motor homes, shall remain in a park from 10:00 p.m. to 5:00 a.m. without the written permission of the Parks and Recreation Director.

(5) Motor vehicles shall be parked or operated only in designated parking areas, except that authorized City vehicles and authorized public service or utility vehicles shall be allowed to operate on park trails, pathways or other areas of such park or park facilities as necessary for maintenance or other public purposes. No motor vehicles shall exceed a speed of fifteen (15) mph in any park or recreation facility unless otherwise posted.

(6) No golfing shall be allowed in a park, unless otherwise posted.

(7) No glass containers of any kind shall be permitted in any park, any time.

(8) No person shall commit any act in a park or park facility which would endanger the health, safety or welfare of himself, herself or other park users.

(9) No park or park facility shall be used for profit or personal gain by any individual, group or organization without the express written authorization of the Parks and Recreation Director.

(10) Except in City-designated "dog off-leash" parks, and subject to the rules and regulations of said dog off-leash parks, no pets shall be allowed in a park or park facility unless restrained and controlled by a leash no longer than six (6) feet. All pet waste in all City parks must be cleaned up and disposed of properly.

(11) No individual, group or organization shall use amplified sound in a park or park facility without the express written authorization of the City Manager, and any such use must conform to Article 8-32 of this Code.

(12) The open carry and concealed carry of handguns, firearms and weapons in parks, park facilities and recreations facilities, as the same are defined herein, shall be governed by the provisions of Article 9-32 of this Code.

(13) No person shall release, discharge, drop or spread upon any park or park facility any litter, trash, rubbish, waste, garbage, refuse or ashes other than by placing the same in trash containers or receptacles.

(14) No horses shall be permitted in parks or on park pathways or trails, except as posted.

(15) Fires are restricted to designated areas of the park where permanent grills are provided.

(16) It is unlawful for any person to enter upon or otherwise use or occupy a park or park facility within the corporate limits of the City contrary to or in violation of any of the provisions of this Section, or contrary to any lawful order issued by the Parks and Recreation Director hereunder. Any person violating any of such provisions, upon conviction of the same, shall be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment. (Ord. 1543 §1(part), 1998; Ord. 1589, 1999; Ord. 1815 §1, 2004; Ord. 1877 §1, 2006; Ord. 2158 §1, 2013)

Sec. 9-8-100. Destroying public property.

It is unlawful for any person to willfully, maliciously, wantonly, negligently or in any other manner injure or destroy real property or improvements thereto, or movable or personal property, belonging to the City. (Prior code §7-501; Ord. 1589, 1999)

Sec. 9-8-110. Destroying private property.

It is unlawful for any person to willfully, maliciously, wantonly, negligently or in any other manner injure or destroy real property or improvements thereto, or movable or personal property, belonging to any person. (Prior code §7-502; Ord. 1589, 1999)

Sec. 9-8-120. Obstructing or damaging ditches.

It is unlawful for any person to willfully, maliciously, wantonly or negligently fill up, obstruct or otherwise damage any ditch or ditches lawfully constructed in the City. (Prior code §7-503; Ord. 1589, 1999)

Sec. 9-8-130. Defacing or damaging posted advertisement or bill.

It is unlawful for any person to willfully, maliciously, wantonly, negligently or in any other manner tear down, deface or cover up any posted advertisement or bill of any person when the same is posted in accordance with the provisions of this Article and the ordinances of the City. (Prior code §7-504(a); Ord. 1589, 1999)

Sec. 9-8-140. Defacing or posting posters or signs on certain public property.

It is unlawful to deface, scratch, stencil, post or exhibit any posters, signs, placards, advertisements and handbills or painted or printed matter whatever on any utility pole, on public grounds, public rights-of-way and sidewalks. In addition to other remedies, the City may remove the same summarily without notice. (Prior code §7-504(b); Ord. 1589, 1999)

Sec. 9-8-150. Damaging property.

It is unlawful for any person to throw any stone or other missile at or upon any animal, building, electric light fixture, tree or shrub or to willfully injure, deface, mark, mar or destroy any building, structure, fence, enclosure or other improvements, or any trees, shrubs, plants or flowers planted for ornament or shade upon the public or private grounds if such person is not the owner thereof; or to cut, fill, obstruct, or otherwise injure or damage any ditch, drain, sewer, water main or pipe or any sidewalk, bridge or culvert, or to obstruct or in any manner encumber any public street, public alley or public sidewalk. (Prior code §7-509; Ord. 893 §2, 1976; Ord. 1589, 1999)

Sec. 9-8-160. Payment of reward from City funds.

(a) In the event damage is caused to property belonging to the City and a complaint charging a violation of Sections 9-8-100 through 9-8-150 of this Article or any state statute for wrongfully causing such damage is not prosecuted due to the lack of sufficient evidence to identify any defendant, the City shall pay from appropriated City funds the sum of one hundred dollars ($100.00)

to any person who furnishes evidence which leads to the arrest and conviction of any person for wrongfully causing such damage in violation of the provisions of Sections 9-8-100 through 9-8-150 of this Article or any state statute.

(b) The payment provided for in this Section shall be made by the City within thirty (30) days after the final conviction of such defendant, to the individual who is entitled to such payment, in person, upon his or her appearance at the office of the City Manager, at a time designated by the City Manager for such payment.

(c) In the event more than one (1) person provides such information regarding a single incident or a connected series of incidents, the City Manager shall apportion the amount payable under this Section among the individuals providing such information.

(d) In no event shall any person be entitled to any payment under this Section if there exists any collusion or conspiracy with another who is involved in the incident as a participant, witness, reporting party or otherwise.

(e) No person who is a member of any law enforcement agency or an employee of a governmental agency having responsibility for providing the evidence sought under this Section shall be entitled to any payment pursuant to this Section.

(f) The entitlement to payment of such funds as provided for in this Section shall be solely the decision of the City Manager, and such decision shall be final and conclusive with no right of appeal. (Ord. 1017 §1, 1979; Ord. 1589, 1999)

ARTICLE 9-12

Public, Private and Personal Property

Sec. 9-12-10. Acts constituting trespass.

(a) A person is deemed to have committed criminal trespass if said person unlawfully enters or remains in or upon the premises of another. A person unlawfully enters or remains in or upon the premises of another:

(1) If said person is in or upon the premises without permission of the owner, lessee or person with right to possession of said premises; or

(2) As to commercial or industrial premises or a City-owned structure, if the person is in or upon the premises, including off-street parking areas serving the premises, not in the process of conducting business or seeking to conduct business with the owner, lessee or person with right to possession of the premises, or not present by invitation of a person in the process of conducting business or seeking to conduct business on the premises; or

(3) As to public property, if the person is in or upon any premises that is fenced or enclosed or is posted with legible, plainly visible signs containing the words "No Trespassing" or other express statements forbidding entry. Such sign posed on the property of a municipal or quasi-

municipal corporation shall contain the name or official symbol of such municipal or quasi-municipal corporation.

(b) A person is deemed to have committed criminal trespass if such person enters or remains in or upon any motor vehicle, motor home, trailer home or trailer of another without permission of the owner. A person unlawfully enters or remains in or upon the motor vehicle, motor home, trailer home or trailer of another:

(1) If said person enters, uses or occupies a motor vehicle, motor home, trailer home or trailer of another person without authority or permission of the owner, lessee or authorized person with right to possession of said motor vehicle, motor home, trailer home or trailer.

(2) It is a specific defense to a charge under this Section that the defendant had permission of the owner or the owner's agent for the entry, that the entry was for a brief period of time to secure the vehicle from harm, or was directed or authorized by a public official.

(3) This Subsection (b) does not apply where the entry was made with the intent to steal anything of value, or where the vehicle was parked on the property of the defendant or of the defendant's principal. (Ord. 1075 §1(part), 1982; Ord. 1589, 1999; Ord. 1699 §1, 2001)

Sec. 9-12-20. Violation and penalty for trespass.

(a) A person who is found guilty or enters a plea of guilty or nolo contendere to violating Section 9-12-10 shall be punished as follows:

(1) For the first offense, a fine of not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300.00);

(2) For the second offense committed within five (5) years of a first offense, a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300.00);

(3) For the third and all subsequent offenses committed within five (5) years of the first offense, a minimum penalty of a three-hundred-dollar fine.

(b) The minimum fines imposed by this Section shall be mandatory and the Court shall not suspend a fine, in whole or in part. (Ord. 1075 §1(part) , 1982; Ord. 1589, 1999)

Sec. 9-12-30. Theft.

It is unlawful to commit theft. A person commits theft when that person knowingly obtains or exercises control over a thing of value of another without authorization, or by threat or deception, and:

(1) Intends to deprive the other person permanently of the use or benefit of the thing of value;

(2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person of its use or benefit;

(3) Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person of its use and benefit; or

(4) Demands any consideration to which that person is not legally entitled as a condition of restoring the thing of value to the other person. (Ord. 1214 §1 (part), 1986; Ord. 1415 §2(part), 1992; Ord. 1589, 1999)

Sec. 9-12-40. Theft by receiving.

It is unlawful to commit theft by receiving. A person commits theft by receiving if that person obtains control over property, knowing the property to have been stolen from another person, or obtains control over such property under such circumstances as would reasonably induce such person to believe that the property was stolen. (Ord. 1415 §2(part), 1992; Ord. 1589, 1999)

Sec. 9-12-50. Rights to stolen property.

All property obtained through a violation of this Article shall be restored to the owner, and no sale, whether in good faith on the part of the purchaser or not, shall divest the owner of the right to such property. (Ord. 1214 §1(part), 1986; Ord. 1415 §2(part), 1992; Ord. 1589, 1999)

Sec. 9-12-60. Theft of rental property.

It is unlawful to commit theft of rental property. A person commits theft of rental property if that person obtains the temporary use of property belonging to another which is available for hire or rental:

(1) By means of threat or deception;

(2) Knowing that such use is without the consent of the person who provides such property; or

(3) Having lawfully obtained possession for temporary use of such property of another which is available for hire or rental, fails to return such property to the owner or the owner's agent within seventy-two (72) hours after the time at which such person agreed to return such property, and thereby deprives the owner of the property of the use or benefit of the property. (Ord. 1415 §2(part), 1992; Ord. 1589, 1999)

Sec. 9-12-70. Theft of food or accommodations.

It is unlawful to commit theft of food or accommodations. A person commits theft of food or accommodations if that person obtains or procures food or accommodations at any establishment, with the intent to defraud. It shall be prima facie evidence that such person intended to defraud such establishment if such person procures food or accommodations without having any means of payment therefor, or exits the building or grounds where such food or accommodations were provided without making payment therefor and without the consent of the operator of such establishment. (Ord. 1415 §2(part), 1992; Ord. 1589, 1999)

Sec. 9-12-80. Theft by shoplifting.

(a) It is unlawful to commit theft by shoplifting. A person commits theft by shoplifting as more fully set forth in this Section.

(b) It is unlawful for any person to conceal, or to aid, abet or assist another person in concealing unpurchased goods, products or merchandise that are owned, held or displayed for sale by any retail outlet, store or other mercantile establishment, with the intent to avoid payment therefor. Concealment (whether such concealment is on a person or otherwise, and whether

such concealment is on or off the premises of such store or mercantile establishment) shall constitute prima facie evidence that such person intended to avoid payment therefor.

(c) It is unlawful for any person to knowingly carry away, or to aid, abet or assist another person in knowingly carrying away, unpurchased goods, products or merchandise that are owned, held or displayed for sale by any retail outlet, store or other mercantile establishment. The carrying away of unpurchased gasoline or similar fuel products is included within the acts prohibited herein.

(d) The definition of the phrase *carry away* shall include, but shall not be limited to, the exiting towards the outside of any retail outlet, store or other mercantile establishment with any such unpurchased goods. The price market on any goods, by writing or printing thereon or by a tag or a sticker attached thereto, is prima facie evidence of the value of that item.

(e) It is unlawful for any person to switch, change or alter in any way the price markings on any goods, wares or merchandise offered or displayed for sale by any store or other mercantile establishment with the intent to avoid full payment therefor, or thereby making less than full payment. (Ord. 1187 §1, 1985; Ord. 1415 §1(part), 1992; Ord. 1589, 1999; Ord. 1932 §2, 2008)

Sec. 9-12-90. Questioning by merchant or police officer.

If there is probable cause to believe that a person has committed an offense in violation of Section 9-12-80, a merchant, his or her agent, or any peace or police officer may detain and question the person suspected of such offense for the purpose of ascertaining identification and facts for prosecution. Such detaining and questioning of such suspected person by a merchant, his or her agent or peace or police officer, shall not render such person civilly liable for slander, false arrest, false imprisonment, malicious prosecution, unlawful detention or other cause of action. (Ord. 1187 §2, 1985; Ord. 1415 §1(part), 1992; Ord. 1589, 1999)

Sec. 9-12-100. Value limit.

The City has the concurrent power, with the State, to prohibit theft, by ordinance, with a value of the thing involved less than one thousand dollars ($1,000.00). This Article does not apply to things of value of one thousand dollars ($1,000.00) or more, and it shall be an affirmative defense to a prosecution under this Article that the thing involved in the theft was valued at one thousand dollars ($1,000.00) or more. (Ord. 1932 §2, 2008)

Secs. 9-12-110—9-12-150. Reserved.

Sec. 9-12-160. Violation; penalty.

Every person found guilty of a violation of any provision of this Article shall be punishable as provided by Article 1-24 of this Code. (Prior code §7-A510(e); Ord. 816 §1, 1975; Ord. 1415 §1(part), 1992; Ord. 1589, 1999)

ARTICLE 9-14

Graffiti

Sec. 9-14-10. Definitions.

When used in this Article the following words and terms, unless the context otherwise indicates a different meaning, shall be interpreted as follows:

Agent: an individual or entity that is authorized by a business or property owner to act on his or her behalf with regard to the business or property.

City Manager: the City Manager of Brighton.

Code: the Brighton Municipal Code, as the same may be amended.

Deface: to mar, alter, damager, impair or destroy by effacing significant details to the exterior surface of something by removing, distorting, etching, writing over, painting, adding to or covering all or a part thereof.

Etching equipment: any tool, device or substance that can be used to make permanent marks on any natural or man-made surface.

Graffiti: any marking, symbol, slogan, logo, wording, phrase, name or other extraneous drawing applied to buildings, fences, sidewalks, vehicles or other similar objects. The term *graffiti* does not apply to legally permitted commercial or political signage.

Graffiti vandalism: any unauthorized inscription, word, figure, sign, marking, design, painting or symbol that defaces public or private property, whether temporarily or permanently, created by means of painting, marking, drawing, writing, etching, scratching or carving, by use of paint, spray paint, ink, knife or similar method and which is visible from the public right-of-way, area open to and used by the public or an adjacent property.

Marker pen: a felt-tip marker, permanent marker or similar implement containing a fluid that is not water soluble.

Minor: any person who has not yet attained the age of eighteen (18) years.

Owner or *property owner*: any person holding legal title to any real or personal property located within the City boundaries.

Paint pen: a tube, marker or other pen-like instrument with a tip of one quarter (¼) inch in diameter or less that contains paint or a similar fluid and an internal paint agitator.

Prohibited graffiti material: any implement capable of creating graffiti vandalism, including but not limited to spray paint, spray paint nozzle/tip, marker pen, paint pen or etching equipment.

Spray paint: any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property.

Spray paint nozzle or spray paint tip a nozzle/tip designed to deliver a spray of paint of a particular width or flow from a can of spray paint. (Ord. 2037 §2, 2009)

Sec. 9-14-20. Prohibited acts.

(a) It shall be unlawful for any person to willfully or wantonly commit an act of graffiti vandalism by damaging, mutilating or defacing any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

(b) It shall be unlawful for any person to aid, abet or advise another to deface any real or personal property with graffiti vandalism.

(c) Obligation of owner of commercial/ industrial property to remove graffiti: It shall be unlawful for any person owning any vacant land or any structure or personal property (including, without limitation, Dumpsters) used for commercial or industrial purposes or any rental housing to fail to remove graffiti from such property within seven (7) calendar days of the time such person knows or reasonable shown have known, either directly or through such owner's agents, occupants of the property, tenant or person with possession or control of the property, of such graffiti.

(d) Purchase and possession of graffiti materials: It shall be unlawful for any person to purchase, procure or possess, or attempt to purchase, procure or possess any prohibited graffiti material with intent to use such material in the commission of graffiti vandalism.

(e) Purchase and possession by minor: It shall be unlawful for any minor, except a minor under the direct supervision of the person's parent, legal guardian, school teacher or law enforcement officer in the performance of their duty, to purchase, procure or possess or attempt to purchase, procure or possess any prohibited graffiti material. It shall be an affirmative defense to a charge of possession under this Subsection that the minor possessing the prohibited material was:

(1) Within their home;

(2) While at school or enrolled in a class at school that formally required possession of such material;

(3) At their place of employment; or

(4) Upon real property with permission from the owner, agent, occupant, tenant or person with possession or control of the property to possess such materials.

(f) Contributing to unlawful possession: It shall be unlawful for any person, except a law enforcement officer, school teacher or public official in the performance of their duty to knowingly allow a minor to possess prohibited graffiti material upon any property except with the written consent of the owner, agent, occupant, tenant or person with possession or control of the property. It shall be an affirmative defense to charges under this Subsection that the minor possessing the prohibited graffiti material was:

(1) Within their home;

(2) While at school or enrolled in a class at school that formally required possession of such material;

(3) At their place of employment; or

(4) Upon real property with permission from the owner, agent, occupant, tenant or person with possession or control of the property to possess such materials.

(g) Accessibility to certain prohibited graffiti materials: It shall be unlawful for any person, other than a parent, legal guardian, school teacher or law enforcement officer in the performance of their duty, to sell, exchange, give, deliver, loan or otherwise furnish or cause to permit to be sold, exchanged, given, delivered, loaned or otherwise furnish marker pens and/or spray paint to any minor unless the minor is accompanied by his or her parent or legal guardian and provides written documentation demonstrating the consent of his or her parent or legal guardian. It shall be an affirmative defense to charges under this Subsection that such materials were necessary for the minor to perform an essential job function.

(h) Signs required: It shall be unlawful for any person who sells or offers to sell marker pens and/or spray paint to fail to display at all times in a prominent place a printed card to be a minimum height of fourteen (14) inches and a width of eleven (11) inches, with each letter to be a minimum of one-half (½) inch in height, which reads as follows:

WARNING

GRAFFITI VANDALISM IS AGAINST
THE LAW. IT IS ILLEGAL TO SELL
PROHIBITED GRAFFITI MATERIALS
INCLUDING MARKER PENS AND/OR
SPRAY PAINT TO ANY PERSON UNDER
EIGHTEEN YEARS OF AGE UNLESS
ACCOMPANIED BY HIS OR HER PARENT
OR LEGAL GUARDIAN AND IT IS ILLEGAL
FOR ANY PERSON UNDER EIGHTEEN YEARS
OF AGE TO POSSESS OR TO ATTEMPT TO
PURCHASE THE SAME. FINES AND/OR
IMPRISONMENT MAY BE IMPOSED BY THE
COURT FOR VIOLATION OF THESE PROVISIONS.

(Ord. 2037 §2, 2009)

Sec. 9-14-30. Declaration of public nuisance.

Any property upon which graffiti has been placed and which graffiti is visible to the public view is hereby declared to be a public nuisance and, in the interest of public health, safety and general welfare, shall be abated as set forth in this Article. (Ord. 2037 §2, 2009)

Sec. 9-14-40. Abatement by City.

Any owner, agent, occupant, tenant or person with possession or control of the property whose property has been defaced by graffiti vandalism shall remove the graffiti from such property within seven (7) calendar days of the time such person knows, or reasonably should have known, either directly or through such owner's agent, occupant, tenant or person with possession or control of the property, of such graffiti. Any property owner, agent, occupant, tenant or person with possession or control of the property whose property has been defaced by graffiti vandalism may voluntarily agree to immediate removal or eradication of the graffiti vandalism by the City, provided that the City shall be reimbursed by the owner, agent, occupant, tenant or person with possession or control of the property for the costs of removal and abatement of the graffiti vandalism.

(1) If the owner, agent, occupant, tenant or person with possession or control of the property agrees to such abatement by the City, those persons designated by the City to execute abatement are expressly authorized to enter upon the owner's property for the purpose of causing the removal or eradication of the graffiti.

(2) Such agreement by the owner, agent, occupant, tenant or person with possession or control of the property authorizes the City to abate or remove the graffiti vandalism by any available and appropriate means. This includes the use of chemicals to remove the graffiti or the use of paint to cover the graffiti. The City does not guarantee any color matching if paint is determined to be the most appropriate abatement procedure. (Ord. 2037 §2, 2009)

Sec. 9-14-50. Nuisance, abatement, authority of City to enter and remove graffiti from any property.

(a) The City Manager shall provide written notice to the property owner, agent, occupant, tenant or person with possession or control of the property upon which graffiti vandalism has been placed requiring removal of the graffiti vandalism within seven (7) calendar days of the notice.

(b) The property owner, agent, occupant, tenant or person having control or possession of the property shall remove or eradicate the graffiti within the time indicated on the notice. Inclement weather or other legitimate hardship may extend the removal deadline if the owner, agent, occupant, tenant or person in possession or control petitions the City Manager in writing prior to the initial deadline.

(c) If the graffiti vandalism is not timely removed or eradicated, the City shall have the authority to remove or eradicate it and shall have access to the property to do so. The City shall collect from the owner, agent, occupant, tenant or person with possession or control of the property the labor and materials costs incurred for the removal or eradication.

(d) The City Manager may enter onto private property and remove or paint over graffiti if the City Manager first attempts to notify the affected owner, agent, occupant, tenant or person with possession or control of the property and provide such recipients with an opportunity to eradicate the graffiti vandalism. Such notice must be given or mailed no later than seven (7) calendar days prior to removing or painting over the graffiti vandalism.

(e) If an owner, agent, occupant, tenant or person with possession or control of the property does not eradicate the graffiti vandalism within seven (7) calendar days of notification as provided in Section 9-14-60 as it may be amended, the City Manager may enter and remove or paint over the graffiti vandalism. If, prior to such entry, the City Manager determines that entry onto the property is opposed by the owner, agent, occupant, tenant or person with possession or control of the property, or will be technically difficult, or if the City Manager wishes to clarify the appropriate nature and conditions of entry upon the land, the City Manager may submit an affidavit to the Municipal Court in support of a request for an enforcement warrant pursuant to Article 1-20 of this Code, to authorize entry upon the property to remove graffiti vandalism. Such affidavit shall set forth probable cause to believe that graffiti vandalism exists on the property and shall specify that the owner, agent, occupant, tenant or person with possession or control of the property has not eradicated the graffiti vandalism following notice to do so. Upon receipt of such affidavit and determination of probably cause, the Municipal Court shall issue a warrant authorizing the City Manager or the City Manager's agents to enter upon the property as needed to eradicate graffiti vandalism.

(f) If, pursuant to the provisions of this Section, the City Manager removes graffiti vandalism from private property by painting over it, the City Manager shall not be required to use paint that matches preexisting paint in color or kind. In this regard, it is legislatively determined that the eradication of graffiti vandalism with contrasting paint does not damage private property more than does the continued presence of such graffiti vandalism on that property.

(g) No graffiti vandalism removal by the City Manager authorized by this Section shall, without owner, agent, occupant, tenant or person with possession or control of the property permission, extend to areas not visible to the public.

(h) Nothing in this Section shall impose a duty upon the City Manager to remove or eradicate graffiti vandalism. Nothing in this Section shall prevent the City Manager from giving additional notice to any other interested parties or persons, should it appear to the City Manager that such extra notice is likely to produce prompt removal of the graffiti vandalism.

(i) Reimbursement to City for removal of graffiti. Any person required by this Article to remove graffiti vandalism who fails to remove the graffiti vandalism may be charged the reasonable costs of such removal by the City Manager if the City removes it pursuant to this Section 9-14-50, payable to the Finance Director of the City. However, reimbursement of City expenses for graffiti vandalism removal shall not be required unless the following procedures are used:

(1) Notice of the obligation to remove graffiti vandalism, and of the possibility that reimbursement may be sought if the City Manager remove the graffiti vandalism, shall be provided to the owner, agent, occupant, tenant or person with possession or control of the property upon which the graffiti vandalism is located by posting as set forth in Section 9-14-60, as it may be amended, personally or by the deposit of such notice in the United State mail, postage prepaid, and addressed to the owner, agent, occupant, tenant or person with possession or control of the property at the recipients' addresses as the same appear on the most recent assessment roll of the county assessor of the county in which the property is located or the records of the City. The written notice by the City Manager shall inform the recipient that any graffiti vandalism on any structure, fence, wall or sign is deemed to be a public nuisance subject to abatement and assessment of costs therefor as provided in Section 9-14-30, as it may be amended.

(2) In the event that a notice to remove is also given to the agent, occupant, tenant or person in possession or control of the property, such notice shall be provided in the manner specified in this Section with respect to giving notice to the owner of the property and may be addressed to "occupant" or "to whom it may concern" if the name of such person is not known.

(3) Upon removal of graffiti vandalism by the City after notice required by this Subsection, if the City Manager determines to seek reimbursement the City Manager shall deliver a demand for reimbursement to the owner, agent, occupant, tenant or person with possession or control of the property detailing:

a. The reason that the removal was required;

b. The date upon which the removal was accomplished; and

c. The cost of doing such work,

The demand for reimbursement for the costs of graffiti vandalism removal shall be provided to the owner, agent, occupant, tenant or person with possession or control of the property upon which the graffiti vandalism was located by posting, delivering personally or by the deposit of such demand in the United States mail, postage prepaid and addressed to the recipients' addresses as the same appear on the most recent assessment roll of the county assessor of the county in which the property is located or the records of the City.

(4) The owner, agent, occupant, tenant or person with possession or control of the property from which graffiti vandalism has been removed and who has received a demand for

reimbursement pursuant to this Section shall make such payment within forty-five (45) days of the date upon which the demand was deposited into the United State mail, or if it is shorter, within thirty (30) days of the date upon which such owner, agent, occupant, tenant or person with possession or control of the property received personal service of such report and demand. However, the City Manager may enter into an agreement with an owner, agent, occupant, tenant or person with possession or control of the property for payment to be made on some other mutually agreed date or schedule.

(5) The City shall have a first and prior lien on the property for the costs of the abatement of the graffiti vandalism upon Notice of Lien as provided in Section 8-4-20, Lien, of this Code.

(6) In the event any owner, agent, tenant or person in possession or control of the property desires to object to the assessment made for the costs of abatement, he or she may, within thirty (30) days after the completion of the abatement work, file a written objection thereto with the City Manager, who shall thereupon designate the next regular meeting of the City Council as the date when such objector may appear before the City Council and have his or her objections heard.

(7) If any person fails or refuses to pay when due any charge for reimbursement imposed under this Section, the City Manager may, in addition to taking other collection remedies, certify due and unpaid charges to the county treasurer of the county in which the property is located for collection. Upon receipt of the assessment roll, the county treasurer shall proceed to collect the amounts so assessed and certified against the property affected thereby in the same manner as the collection of general property taxes and the redemption thereof. (Ord. 2037 §2, 2009)

Sec. 9-14-60. Notification.

In the event that the provisions of this Article require that notice be given, the City Manager shall cause notice requiring compliance with the provisions of this Article to be served to the owner, agent, tenant, person in possession or control of the property or other responsible party, either by posting, delivering personally or by the deposit of such notice in the United States mail, postage prepaid and addressed to the intended recipient thereof at the recipient's address as the same appears on the most recent assessment roll of the county assessor of the county in which the property is located or the records of the City. Posting of the property shall be by a sign not less than eight and one-half (8½) inches by eleven (11) inches with letter not less than one-fourth (¼) inch in height. Posting or written notice served personally or by mail upon a reasonable party shall be deemed to comply with the notice provisions of this Article. In the case of violations occurring on private property where the owner of such property is a responsible party, the notice by mail shall be sent to the address shown in the county assessor's records for the county in which the property is located. In the case of violations occurring on property for which the responsible party is not the owner, the notice by mail shall be sent to the most recent mailing address available to the City for that responsible party. In any case, the posting of such property by the City shall be deemed adequate notice. Notice shall be effective upon personal service or posting, or if by mail, upon the fifth day after mailing of the notice. (Ord. 2037 §2, 2009)

Sec. 9-14-70. Penalties regarding graffiti.

(a) Every person found guilty of a violation of any provision of this Article shall be punishable as provided by Article 1-24 of this Code.

(b) The following fines shall be imposed, provided that the Court may suspend all or any part of the fine as is appropriate under the circumstances, taking into consideration and making allowances for any restitution ordered to the victim or victims of the crime as provided in Section 1-24-30 of this Code.

Offense	***Fine***
First Offense	$250.00
Second Offense	$500.00
Third Offense	$1,000.00

(c) Each day that the owner, agent, occupant, tenant or person in possession or control of the property fails to remove or make appropriate arrangements for the removal of any graffiti vandalism shall be deemed a separate and distinct violation.

(d) Each act of graffiti vandalism shall be deemed a separate and distinct violation.

(e) Nuisances and civil remedies. All violations of this Article, as it may be amended, shall be subject to abatement as nuisances and the civil remedies set forth in Section 1-24-20 of this Code.

(f) Restitution. In addition to any punishment specified in this Section, the Court shall order any convicted defendant and/or the parents of a minor defendant to make restitution to the City or other victim for damages or losses caused directly or indirectly by the violator's offense, as more fully set forth in Section 1-24-30 and Section 2-16-80 of this Code. Notwithstanding any other provision of this Code, there shall be no monetary cap on the amount of the restitution which may be ordered by the Court.

(g) Notice not required. No written notice which may be required in this Article shall be required prior to a criminal prosecution for violation of this Article or prior to any other remedy provided in this Article.

(h) Community service. In lieu of, or as part of, the penalties specified in this Section, a convicted defendant and/or the parents of a minor defendant pursuant to Section 2-16-80 of this Code may be required to perform community service as described by the Court based on the following guidelines:

(1) If convicted of committing graffiti vandalism, the defendant should perform at least thirty (30) hours of community service.

(2) If convicted of any violation of this Article other than graffiti vandalism, the defendant should perform at least twenty-four (24) hours of community service.

(3) The community service shall be dedicated first to the removal or graffiti vandalism, provided that, if the graffiti to be removed in the City does not require the full extent of the required community service, the Court shall require another form of useful community service substituted for graffiti vandalism removal.

(i) The Court shall impose the maximum fine allowed by Section 1-24-10 of this Code and at least forty-eight (48) hours of community service, in addition to any jail sentence imposed by the Court upon any person convicted three (3) or more times of violation of this Article. (Ord. 2037 §2, 2009; Ord. 2064 §2, 2010)

Sec. 9-14-80. Graffiti abatement fund.

(a) There is hereby created the graffiti abatement fund, to be kept separate and apart from the general fund, under the control and supervision of the Municipal Court Clerk, where all graffiti abatement fund fees shall be deposited.

(b) In addition to any penalty imposed and/or restitution ordered by the Municipal Court, the Court may order a defendant convicted under this Article to pay two hundred fifty dollars ($250.00) for each location or occurrence into the graffiti abatement fund, unless the actual costs of abatement of the graffiti placed in that case exceeds two hundred fifty dollars ($250.00), in which event the Court shall order the full amount of the costs of abatement paid into the graffiti abatement fund by that defendant. The amount to be paid to the abatement fund by the defendant for a second conviction is five hundred dollars ($500.00) and for a third and subsequent conviction, one thousand dollars ($1,000.00). If the person convicted is under eighteen (18) years of age, that person's parent or parents or legal guardian may be ordered to make payment to the graffiti abatement fund a fee in the nature of civil damages, as applying graffiti is a deliberate, willful and malicious act.

(c) If the property owner, tenant or person having control or possession of the premises eradicates the graffiti, he or she may file with the Municipal Court a written request for reimbursement from the graffiti abatement fund, as follows:

(1) The owner, tenant or person having control or possession of the premises may apply for reimbursement for both labor and material costs, up to a total reimbursement of one hundred fifty dollars ($150.00) if the graffiti was eradicated within the deadline set forth in Section 9-14-50.

(2) Receipts for expenses must accompany reimbursement requests.

(d) If the property owner, tenant or person having control or possession of the premises fails to eradicate the graffiti and the City or its agent removes the graffiti, the City may file with the Municipal Court a written request for reimbursement for both labor and material costs from the abatement fund, provided that said reimbursement shall not exceed one hundred fifty dollars ($150.00). (Ord. 2064 §3, 2010)

ARTICLE 9-16

Public Peace, Order and Decency

Sec. 9-16-10. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article:

Bawdy house or *house of assignation* means a house or place kept for the shelter and convenience of persons desiring unlawful sexual intercourse or other unlawful physical sexual activity and where such intercourse or activity is practiced.

Check means a written unconditional order to pay a sum certain in money, drawn on a bank or savings and loan association, payable on demand, and signed by the drawer. *Check* also includes a negotiable order of withdrawal and a share draft.

Drawee means the bank or savings and loan association upon which a check is drawn or a bank, savings and loan association, industrial bank or credit union on which a negotiable order of withdrawal or a share draft is drawn.

Drawer means a person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature is that of himself or herself or of a person authorized to draw the check on himself or herself.

House of prostitution means a house or place kept or resorted to for the purpose of prostitution.

Indecent exposure, as used in Section 9-16-52, means knowingly exposing one's genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.

Insufficient funds means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account or share draft account with the drawee or has funds in such an account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance; and a check dishonored for *no account* shall also be deemed to be dishonored for *insufficient funds*.

Issue means when a person makes or draws a check and delivers, or passes it out of his or her possession or causes it to be made, drawn, delivered or passed out of his or her possession.

Lewd act means an indecent appearance in the state of nudity. Such term includes indecent exposure of the private parts in a place open to the public view.

Loiter means to be dilatory, to stand idly around, to linger, delay or wander about, or to remain, abide or tarry in a public place.

Meretricious display means any act, sign, gesture or manifestation which allures or is calculated to allure, entices or is calculated to entice, by a false show, gaudiness, tawdry ornamentation or lascivious suggestion for purposes of prostitution.

Negotiable order of withdrawal and *share draft* mean negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

Negotiable order of withdrawal account means an account in a bank, savings and loan association or industrial bank, and *share draft account* means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank,

savings and loan association, industrial bank or the credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty (30) days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.

Prostitute means one who engages in prostitution as defined in this Section.

Prostitution includes the offering or receiving of the body for sexual intercourse or other physical sexual activity for hire.

Public indecency, as used in Section 9-16-51, means an act of sexual intercourse; a lewd exposure of the body done with the intent to arouse or to satisfy the sexual desire of any person; or a lewd fondling or caress of the body of another person, committed in a public place or where the conduct may reasonably be expected to be viewed by members of the public.

Public urination or *defecation*, as used in Section 9-16-53, means urinating or defecating in a public place or where the conduct may reasonably be expected to be viewed by members of the public, unless the same is done in a public place specifically designated for such purposes. (Ord. 954 §1(part), 1977; Ord. 1115 §1(part), 1982; Ord. 1186 §2(part), 1985; Ord. 1589, 1999; Ord. 1809 §1, 2004)

Sec. 9-16-20. Disorderly conduct.

It is unlawful for any person to disturb or to tend to disturb peace of others by violent, tumultuous, offensive or obstreperous conduct, by loud or unusual noises by unseemly, profane, obscene or offensive language calculated to provoke a breach of the peace; or by assaulting, striking or fighting another; or for any person to permit any such conduct in any house or upon any premises owned or possessed by him or her or under his or her management or control, when the prohibition of such acts is within his or her power to prevent, so that others in the vicinity are or may be disturbed thereby. (Ord. 986 §1, 1978; Ord. 1589, 1999)

Sec. 9-16-30. Keeping bawdy house or house of prostitution.

It is unlawful for any person to keep a bawdy house or house of prostitution within the City. (Ord. 1115 §1(part), 1982; Ord. 1589, 1999)

Sec. 9-16-40. Offenses relating to prostitution and lewdness.

It is unlawful for any person to:

(1) Commit, offer or agree to commit a lewd act or an act of prostitution;

(2) Secure or offer another for the purpose of committing a lewd act or an act of prostitution;

(3) Be in or near any place frequented by the public, or any public place, for the purpose of inducing, enticing or procuring another to commit a lewd act or an act of prostitution;

(4) Make a meretricious display in any public place, any place frequented by the public or any place open to the public view;

(5) Transport knowingly any person to any place for the purpose of committing a lewd act or an act of prostitution;

(6) Receive, offer or agree to receive knowingly any person into any place or building for the purpose of performing a lewd act or an act of prostitution, or permit knowingly any person to remain in any place or building for any such purpose;

(7) Direct, offer or agree to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution; or

(8) In any manner aid, abet, suffer, permit or participate in the doing of any of the acts prohibited by this Section. (Ord. 1115 §1(part), 1982; Ord. 1589, 1999)

Sec. 9-16-50. Obscene language or gestures.

It is unlawful for any person to:

(1) Use abusive, indecent, profane or vulgar language in a public place if such language, by its very utterance, tends to incite an immediate breach of the peace; or

(2) Make an offensive gesture or display in a public place, if such gesture or display intends to incite an immediate breach of the peace. (Ord. 1115 §1(part), 1982; Ord. 1589, 1999)

Sec. 9-16-51. Public indecency.

It is unlawful for any person to commit the following acts in a public place, or where the conduct may reasonably be expected to be viewed by members of the public:

(1) An act of sexual intercourse;

(2) A lewd exposure of the body done with the intent to arouse or to satisfy the sexual desire of any person; or

(3) A lewd fondling or caress of the body of another person. (Ord. 1809 §1, 2004)

Sec. 19-16-52. Indecent exposure.

It is unlawful in a public place or where the conduct may reasonably be expected to be viewed by members of the public for any person to knowingly expose his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Ord. 1809 §1, 2004)

Sec. 9-16-53. Public urination and defecation.

It is unlawful for any person to urinate or defecate in any public place where such conduct is likely to be viewed by any other person and cause affront or alarm to such other person. It shall not be an offense under this Section if such urination and defecation is done in a public place designated for such purposes. (Ord. 1809 §1, 2004)

Sec. 9-16-60. Intentional bodily injury.

It is unlawful for any person to intentionally cause bodily injury to another person; provided, however, that this Section shall not apply to injury caused by means of a deadly weapon, nor shall it apply in the event of serious bodily injury. (Prior code §7-413(l); Ord. 880 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-16-70. Bodily injury; criminal negligence.

It is unlawful for any person with criminal negligence to cause bodily injury to another person by means of a deadly weapon. (Prior code §7-413(3); Ord. 880 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-16-80. Intimidation.

It is unlawful for any person without legal authority to threaten, confine, restrain or cause bodily harm to the threatened person of another or damage the property or reputation of the threatened person of another with intent thereby to induce the threatened person of another against his or her will to do an act or refrain from doing a lawful act. (Prior code §7-415; Ord. 880 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-16-90. Harassment.

(a) It is unlawful for any person, with the intent to harass, annoy or alarm another person, to:

(1) Strike, shove, kick or otherwise harm a person or subject him or her to physical contact;

(2) In a public place, direct obscene language or make an obscene gesture to or at another person;

(3) Follow a person in or about in a public place;

(4) Initiate communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily injury or property damage, or make any comment, request, suggestion or proposal by telephone which is obscene;

(5) Make a telephone call or cause a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

(6) Make repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or

(7) Repeatedly insult, taunt, challenge or make communications in offensively coarse language to, another in a manner likely to provoke a violent or disorderly response.

(b) As used in this Section, unless the context otherwise requires, *obscene* means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(c) Any act prohibited by Subsection (a)(4) above may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received. (Prior code §7-418; Ord. 880 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-16-100. Threatening physical injury.

It is unlawful for any person to intentionally place or attempt to place another person in fear of imminent serious bodily injury by any threat or physical action; provided, however, that if such be with the use of a deadly weapon, then this Section shall not apply. (Prior code §7-414; Ord. 880 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-16-110. Loitering prohibited.

A person shall be deemed in violation of this Article if he or she:

(1) Loiters for the purpose of begging;

(2) Loiters for the purpose of unlawful gambling with cards, dice or other gambling paraphernalia;

(3) Lingers for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse;

(4) Loiters in or about a school building or grounds not having any reason or relationship involving custody of or responsibility for a pupil or any other specific legitimate reason for being there and not having written permission from a school administrator;

(5) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a narcotic or dangerous drug.

(6) Loiters in or about any place or building owned or maintained by a governmental entity supported by general property taxes without any specific legitimate reason for being there and not having permission from any representative of such governmental entity responsible for the maintenance of such premises;

(7) Loiters in or about any place or building owned or maintained by any religious organization without any specific legitimate reason for being there and not having permission from any representative of such religious organization responsible for the maintenance of such premises; provided that prior to enforcement of this Subsection as to property of any religious organization, such religious organization must first file with the Chief of Police a written request

for the enforcement of this Article as to the property of such religious organization. (Ord. 954 §1(part), 1977; Ord. 1589, 1999)

Sec. 9-16-120. Exemptions to loitering.

It shall be an affirmative defense to a conviction under Section 9-16-110 above that the defendant's acts were lawful and he or she was exercising his or her right of lawful assembly as a part of a peaceful and orderly petition for the redress of grievances either in the course of labor disputes or otherwise. (Ord. 954 §1(part), 1977; Ord. 1589, 1999)

Sec. 9-16-130. Unlawful use of missiles.

It shall be unlawful for any person to knowingly project any missile toward any vehicle; or toward any person, animal, structure or object in a manner that causes or has substantial risk of causing, injury or damage. As used herein, the phrase *missile* includes BBs, eggs, pellets, darts, snowballs, stones or other such objects. As used herein, the word *project* includes throwing, slinging, dropping or shooting. (Ord. 1408, 1992; Ord. 1589, 1999)

Sec. 9-16-140. Fraud by check.

It is unlawful to commit fraud by check. Any person, knowing he or she has insufficient funds with the drawee, who with intent to defraud, issues a check for less than three hundred dollars ($300.00) for the payment of services, wages, salaries, commissions, labor, money, property or other thing of value commits fraud by check. (Ord. 1186 §2(part), 1985; Ord. 1589, 1999)

Sec. 9-16-150. Deferred prosecution or judgment; probation.

If deferred prosecution, deferred judgment or probation is ordered as a result of a violation of Section 9-16-140 above, the Court, as a condition of supervision, may require the defendant to make restitution on all checks issued by the defendant which are unpaid as of the date of commencement of the supervision, in addition to other terms and conditions appropriate for treatment or rehabilitation of the defendant. (Ord. 1186 §2(part), 1985; Ord. 1589, 1999)

Sec. 9-16-160. Release of information.

A bank, savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to a police officer of the City investigating a violation of this Section. (Ord. 1186 §2(part), 1985; Ord. 1589, 1999)

Sec. 9-16-170. Presumption of culpable mental state.

A conviction pursuant to Section 9-16-140 requires the prosecution to establish the required culpable mental state of the issuer; however, for purposes of Section 9-16-140, the issuer's knowledge of insufficient funds is presumed, except in the case of a postdated check or order, if: (1) he or she has no account upon which the check or order is drawn with the bank or other drawee at the time he or she issues the check or order; or (2) he or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue. (Ord. 1186 §2(part), 1985; Ord. 1589, 1999)

Sec. 9-16-180. Recovery of costs.

If a person institutes or causes to be instituted a prosecution for violation of this Section and shall thereafter fail to cooperate in the full prosecution of the alleged offender without reasonable cause, the Court having jurisdiction, on motion of the prosecuting attorney appearing therein, and after notice to such person and an opportunity to be heard, may give judgment against such person and in favor of the City for all costs of the prosecution, including a reasonable allowance for the time of the prosecuting attorney. (Ord. 1186 §1(part), 1985; Ord. 1589, 1999)

ARTICLE 9-20

Minors

Sec. 9-20-10. Curfew for persons under sixteen years.

It is unlawful for any person under the age of sixteen (16) years to remain or loiter upon any street, alley or other public place or way subsequent to the hour of 11:00 p.m. or prior to the hour of 5:00 a.m., except for lawful employment or except where there exists a reasonable necessity therefor or except where such person is accompanied by the parent, guardian or other person of the age of twenty-one (21) years, having permission of the parent or guardian who has the care and custody of such child; provided, however, that on Friday and Saturday nights of each week, the curfew provided for in this Section shall be extended to 1:00 a.m. with permission of the parents or guardian of such child. (Prior code §7-105; Ord. 877 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-20-20. Parent or guardian responsibility.

It is unlawful for any parent, guardian or other person having care or custody of any child under the age of sixteen (16) years to allow or permit any such child to remain or loiter on any public street, alley or other public way or place subsequent to the hour of 11:00 p.m. or prior to the hour of 5:00 a.m., except for lawful employment, or except where there exists a reasonable necessity therefor or except where such child is accompanied by his or her parent, guardian or other person of the age of twenty-one (21) years having permission from the parent or guardian who has the care and custody of such child; provided, however, that on Friday and Saturday nights of each week, the hour of curfew provided for in this Section shall be extended to 1:00 a.m. with permission of the parent or guardian of such child. (Prior code §7-104; Ord. 877 §1(part), 1976; Ord. 1589, 1999)

Sec. 9-20-30. Violation; penalty.

(a) Any person under the age of sixteen (16) years violating any of the provisions of this Article, upon conviction thereof, shall be punished by a fine not exceeding three hundred dollars ($300.00).

(b) Any other person violating any of the provisions of this Article, upon conviction thereof, shall be punishable as provided in Article 1-24 of this Code. (Prior code §7-106; Ord. 877 §1(part), 1976; Ord. 1589, 1999)

ARTICLE 9-24

Alcohol Beverages

Sec. 9-24-10. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article:

Alcohol beverages means any malt, vinous or spirituous liquor or fermented malt beverage, including any type of beer. In addition to any other competent evidence, a label on a container, stating the contents of that container is beer, ale, malt beverage, fermented malt beverage, malt liquor, wine, champagne, whiskey, gin, vodka, tequila, schnapps, brandy, cognac, liqueur, cordial alcohol or liquor, whether observed and testified to by a witness or introduced physically into evidence, shall be admissible evidence and shall constitute prima facie evidence that the contents of the container were composed in whole or in part of alcohol beverages.

Licensed premises is defined as the structure within which the establishment does business, together with parking areas adjacent thereto.

Possession means that a person has an alcohol beverage anywhere on his or her person or within his or her immediate presence and control. An alcohol beverage in the interior of a motor vehicle is within the immediate presence and control of all persons in that motor vehicle unless such alcohol beverage is in a closed compartment, in which case the driver of the vehicle is the person who is in possession and control of the alcohol beverage.

Quasi-public place is defined as a building, driveway or parking area not owned by a governmental entity which is open to the public and is not licensed pursuant to the liquor or fermented malt beverage laws of the State. (Ord. 974 §1(D), 1978; Ord. 1025 §1(part), 1980; Ord. 1490 §1(part), 1996; Ord. 1589, 1999)

Sec. 9-24-20. Consumption prohibited.

(a) It is unlawful for any person to consume within the City any malt, vinous or spirituous liquors or fermented malt beverages while operating or riding as a passenger in any motor vehicle or in or upon any quasi-public place, street, alley, highway, sidewalk, place or building owned or maintained by any governmental entity supported by general property taxes, except in public parks in the City. In public parks, such consumption shall be permitted only during the hours of 8:00 a.m. to 10:00 p.m.

(b) It is unlawful for any person to consume within the City any malt, vinous or spirituous liquors or fermented malt beverages upon any property owned or maintained by a religious organization in the City; provided that such religious organization shall first have filed with the Chief of Police a written request for the enforcement of this Article as to the property of such a religious organization. (Ord. 1025 §1(part), 1980; Ord. 1589, 1999)

Sec. 9-24-30. Open containers prohibited.

It is unlawful for any person to have in his or her possession any open container containing any malt, vinous or spirituous liquor or fermented malt beverage while operating or riding as a passenger

in any motor vehicle, or in or upon any quasi-public place, street, alley, highway, sidewalk, place or building owned or maintained by any governmental entity supported by general property taxes, except in public parks in the City. In public parks the possession of such open containers shall be permitted only during the hours of 8:00 a.m. to 10:00 p.m. (Ord. 1025 §1(part), 1980; Ord. 1589, 1999)

Sec. 9-24-40. Alcohol beverages and minors.

(a) Providing to minors. It shall be unlawful for any person to sell, serve, give away, dispose of, exchange, deliver or permit the sale, serving, giving or procuring of any alcohol beverages to or for any person under the age of twenty-one (21) years.

(b) Minors obtaining. It shall be unlawful for any person under twenty-one (21) years of age to obtain or attempt to obtain alcohol beverages by misrepresentation of age or by any other method in any place where alcohol beverages are sold.

(c) Minors not to possess or consume. It shall be unlawful for any person under twenty-one (21) years of age to have in his or her possession alcohol beverages at any place within the City, whether public or private. It shall be unlawful for any person under twenty-one (21) years of age to be in any motor vehicle or in or upon any public or quasi-public place (such as a public parking lot), street, alley, highway, sidewalk or public building or place, such as a public park, after having consumed any alcoholic beverage. Evidence of consumption may include the odor of an alcohol beverage on a person's breath, loss of balance or coordination shown by physical sobriety test and other recognized and accepted effects of the consumption of alcohol. It shall be an affirmative defense to the offense described herein that the alcohol beverages were possessed or consumed with the consent of his or her parent or legal guardian who was present during such possession or consumption; or the possession or consumption of alcohol beverages took place for religious purposes protected by the Constitution of the United States or the State; or the person is eighteen (18), nineteen (19) or twenty (20) years old and the possession was solely for the purpose of selling or dispensing alcohol beverages at a licensed establishment.

(d) Immediately upon a plea of guilty or no contest or a verdict of guilty by the Court or a jury to violation of Subsection (b) or (c) herein occurring in any public place including public streets, alleys, roads or highways, upon property owned by the State or any subdivision thereof, including the City, or inside vehicles while upon the public streets, alleys, roads or highways, in addition to any other penalty, the Court shall require the convicted person to immediately surrender his or her driver's license (or permit, minor's driver's license or provisional driver's license) to the Court. The Court shall forward to the Colorado Department of Revenue, Motor Vehicle Division, a notice of conviction, together with the convicted person's license, not later than ten (10) days after the conviction, except as provided below, for mandatory revocation purposes pursuant to Sections 42-2-131 and 42-2-125(1)(m), C.R.S.

(e) It is unlawful for any person to fail to surrender his or her driver's license to the Court within twenty-four (24) hours of his or her plea of guilty or no contest or verdict of guilty to a violation of Subsections (b) and (c) of this Section.

(f) Parent's responsibility: It shall be unlawful for any parent or guardian, knowingly or under conditions a reasonable parent or guardian should have knowledge of, to suffer or permit any minor

of whom he or she may be a parent or guardian, to violate the provisions of this Article. (Ord. 1490 §1(part), 1996; Ord. 1520 §1, 1997; Ord. 1589, 1999)

Sec. 9-24-50. Ejection from premises authorized.

Owners, managers or persons in charge of establishments which have been licensed by the City to dispense malt, vinous or spirituous liquors or fermented malt beverages are empowered to order or require any person, for good cause, to leave the licensed premises of such owner, manager or person in charge and/or to permanently prohibit any person, for good cause, from reentering the licensed premises. (Ord. 974 §1(A), 1978; Ord. 1589, 1999)

Sec. 9-24-60. Causes for ejection designated.

Good cause for ejection from the licensed premises, as used in this Article, shall include:

(1) Failure to promptly pay the amount charged for goods or services rendered upon the premises;

(2) Engaging in harassment, disorderly conduct or disturbance of the peace upon the premises;

(3) Engaging in conduct violating any law of the State or ordinance of the City;

(4) Being intoxicated upon the premises; and

(5) Having in the past maintained a course of conduct on the licensed premises which constitutes good cause for ejection from the premises as defined in this Section. (Ord. 974 §1(C), 1978; Ord. 1589, 1999)

Sec. 9-24-70. Entering or remaining upon premises.

It is unlawful -for any person to enter upon or remain upon the premises of an establishment licensed by the City to dispense malt, vinous or spirituous liquors or fermented malt beverages when that person has, for good cause, been ordered to leave the licensed premises by the owner, manager or person in charge of such licensed premises, or has been prohibited, for good cause, from returning to the licensed premises by the owner, manager or person in charge of such licensed premises. (Ord. 974 §1(B), 1978; Ord. 1589, 1999)

Sec. 9-24-80. Discrimination prohibited.

Nothing in this Article shall be deemed to permit or condone discrimination based on race, creed, color, sex, national origin, ancestry, physical handicap or any other basis which would constitute a violation of the civil rights of any individual. (Ord. 974 §1(E), 1978; Ord. 1589, 1999)

Sec. 9-24-90. Illegal sales of alcohol beverages.

(a) It is unlawful for any person to sell, serve, distribute or otherwise transfer an alcohol beverage or to permit the sale, service, distribution or transfer of an alcohol beverage:

(1) To any person who is:

a. Under the age of twenty-one (21) years;

b. Is visibly intoxicated; or

c. Is an habitual drunkard.

(2) Upon premises which are properly licensed pursuant to the statutes of the State at any time which is not authorized by state law.

(3) For money or anything of service or value without a valid liquor license issued pursuant to the statutes of the State.

(b) Proof that a person to whom sale, service, distribution or transfer of an alcohol beverage is herein prohibited was seen on the licensed premises possessing an alcohol beverage in an open container, together with proof that the container was less than full; or a person was seen on the licensed premises possessing an alcohol beverage in an open container, together with proof that the container was less than full at any time which is not authorized by state law shall constitute prima facie evidence that a violation of this Section occurred. (Ord. 1848 §1, 2005)

Sec. 9-24-100. Consumption prohibited.

(a) It shall be unlawful for any license holder and/or employee or agent of such license holder to permit the consumption of any alcohol beverages on the licensed premises at any time when the sale of such alcohol beverages is prohibited by state law.

(b) It shall be unlawful for any person to consume any malt, vinous or spirituous liquors or fermented malt beverages on premises licensed to sell malt, vinous or spirituous liquors or fermented malt beverages at any time when the sale of such alcohol beverages on the premises is prohibited by state law.

(c) Proof that a person was seen on the licensed premises possessing an alcohol beverage in an open container, together with proof that the container was less than full, shall constitute prima facie evidence that a violation of this Section occurred. (Ord. 1848 §1, 2005)

Sec. 9-24-110. Conduct on licensed premises.

(a) Licensees shall comply with and conduct their business in compliance with all federal, state and local laws and regulations.

(b) Licensees shall conduct business in a decent, orderly and respectable manner. The following is strictly prohibited from occurring on or in the licensed premises or upon any adjoining grounds or parking area under the control or management of the licensee: the loitering of habitual drunkards or intoxicated persons; lewd or indecent displays; rowdiness or disorderly conduct; undue noise; and any other disturbance or activity offensive to the sensitivities of the average citizen or the residents of the neighborhood in which the establishment is located.

(c) A person commits a violation of this Article if he or she possesses a valid license for the sale of fermented malt beverages or alcohol beverages pursuant to the statutes of the State and the City and/or is an employee or agent of such license holder, if he or she fails to conduct the licensed premises in a decent, orderly and respectable manner, or permits the serving or loitering of an apparently intoxicated person or habitual drunkard on the licensed premises, or permits profanity offensive to the senses of an average citizen or to the residents of the neighborhood in which the licensed premises are located, or fails to immediately report to the Police Department any breach of the peace or unlawful or disorderly act, conduct, disturbance or any act or acts that constitute a violation of law of the City or State ("unlawful conduct") committed on the premises of the business or upon any parking area or adjoining grounds under the control or management of such licensee. (Ord. 2134 §3, 2012)

Sec. 9-24-120. Cooperation with inspections and compliance operations.

(a) All premises licensed under Article 5-8 of this Code shall be open to inspection by the Police Department, the County Health Department, the State Licensing Authority and any other federal, state, county or City agency which is permitted or required by law to inspect licensed premises. It is unlawful for the licensee, its employees or agents or for any other person to refuse to permit any such inspection of the licensed premises or to otherwise interfere with any such inspection.

(b) No person shall refuse entry to or in any manner interfere with the inspection of the licensed premises by any federal, state or local inspector who is either permitted or required to inspect the licensed premises if such entry is attempted during business hours or during reasonable hours after business hours when there are employees on the premises to admit the federal, state or local inspector. Entry and inspection shall be permitted not only to areas open to the public but also to all other areas where business is conducted, provided that no employee shall be required to accompany any inspector in any area that the employee deems to be dangerous if the employee informs the inspector of the perceived danger.

(c) No licensee, manager and/or those agents or employees of the licensee on duty on the premises shall refuse to cooperate or in any manner interfere with operations, checks or testing conducted by the Police Department, the County Health Department, the state licensing authority and any other federal, state, county or City agency with law enforcement authority to determine compliance with the laws and regulations related to the sale of alcohol beverages, conduct on the licensed premises and other related law enforcement efforts. (Ord. 2134 §3, 2012)

Sec. 9-24-130. Training.

Within sixty (60) days prior to submission of an application for license, transfer of license or renewal thereof, or within sixty (60) days of hire, and annually thereafter, each applicant, licensee and agent, subcontractor, security personnel or employee of the licensee shall attend and complete the Police Department training program for service of fermented malt beverages or alcohol beverages that meets the standards required by City and state law and receive written verification from a duly authorized representative of the Police Department of the satisfactory completion thereof. (Ord. 2134 §3, 2012)

Sec. 9-24-140. Penalties.

Penalties for violations of this Article shall be as provided in Article 1-24 of this Code as the same may be amended from time to time, and shall be in addition to any other penalties provided for in the ordinances of the City or the laws of the State. Notwithstanding any other penalty that may be levied, any license holder who violates, or any license holder whose employees violate, any of the terms of this Article or Title 12, Articles 46, 47 and 48, C.R.S., or the rules and regulations related thereto, shall be subject to suspension or revocation of his or her license pursuant to the laws of the State, the imposition of a fine in lieu of suspension under the provisions of state law or such other penalty as the City's Liquor Licensing Authority deems appropriate. (Ord. 1848 §1, 2005; Ord. 2134 §3, 2012)

ARTICLE 9-28

Drugs and Drug Paraphernalia

Sec. 9-28-10. Legislative declaration.

The City Council hereby finds and declares that the possession, sale, manufacture, delivery or advertisement of drug paraphernalia results in the legitimization and encouragement of the illegal use of controlled substances by making the drug culture more visible and enticing and that the ready availability of drug paraphernalia tends to promote, suggest or increase public acceptability of the illegal use of controlled substances. Therefore, the purposes of the provisions controlling drug paraphernalia are:

(1) To protect and promote the public peace, health, safety and welfare by prohibiting the possession, sale, manufacture, delivery or advertisement, of drug paraphernalia; and

(2) To deter the use of controlled substances by controlling the drug paraphernalia associated with their use. (Ord. 1444 §1, 1993; Ord. 1589, 1999)

Sec. 9-28-20. Definitions.

As used in this Article, unless the context otherwise requires:

Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance (as defined in Section 18-18-101, et seq., C.R.S., including marihuana, marihuana concentrate, hashish, cocaine, crack cocaine, opium and opium derivatives) in violation of the laws of this State. *Drug paraphernalia* includes, but is not limited to:

a. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances under circumstances in violation of the laws of this State;

b. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

c. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana;

d. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

e. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

f. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances; or

g. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

2. Water pipes;

3. Carburetion tubes and devices;

4. Smoking and carburetion masks;

5. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

6. Miniature cocaine spoons and cocaine vials;

7. Chamber pipes;

8. Carburetor pipes;

9. Electric pipes;

10. Air-driven pipes;

11. Chillums;

12. Bongs; or

13. Ice pipes or chillers.

Marihuana or *marijuana* means all parts of the plant *Cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound,

manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination, if these items exist apart from any other item defined as *marihuana* in this Section. *Marihuana* does not include marihuana concentrate as defined in Subsection 18-18-102(19), C.R.S. (Ord. 1444 §1, 1993; Ord. 1589, 1999)

Sec. 9-28-30. Determination; considerations.

(a) In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) The proximity of the object to controlled substances (as defined in Section 18-18-101, et seq., C.R.S., including marihuana, marihuana concentrate, hashish, cocaine, crack cocaine, opium and opium derivatives);

(3) The existence of any residue of controlled substances on the object;

(4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he or she knows or reasonably should know, could use the object to facilitate a violation of this Article.

(5) Instructions, oral or written, provided with the object concerning its use;

(6) Descriptive materials accompanying the object which explain or depict its use;

(7) National or local advertising concerning its use;

(8) The manner in which the object is displayed for sale;

(9) Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;

(10) The existence and scope of legal uses of the object in the community; and

(11) Expert testimony concerning its use.

(b) In the event a case brought pursuant to this Article is tried before a jury, the Court shall hold an evidentiary hearing on issues raised pursuant to this Article. Such hearing shall be conducted in camera. (Ord. 1444 §1, 1993; Ord. 1589, 1999)

Sec. 9-28-40. Penalty for possession.

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of this State.

(b) Any person who commits possession of drug paraphernalia commits a violation of this Code. (Ord. 1444 §1, 1993; Ord. 1589, 1999)

Sec. 9-28-50. Manufacture, sale or delivery of drug paraphernalia.

Any person who sells or delivers, possesses with intent to sell or deliver, or manufactures with intent to sell or deliver equipment, products or materials knowing, or under circumstances where one reasonably should know, that such equipment, products or materials could be used as drug paraphernalia commits a violation of this Code. (Ord. 1444 §1, 1993; Ord. 1589, 1999)

Sec. 9-28-60. Advertisement of drug paraphernalia.

Any person who places an advertisement in any newspaper, magazine, handbill or other publication and who intends thereby to promote the sale in this City of equipment, products or materials designed and intended for use as drug paraphernalia commits a violation of this Code. (Ord. 1444 §1, 1993; Ord. 1589, 1999)

Sec. 9-28-70. Defenses.

(a) The common law defense known as the *procuring agent defense* is not a defense to any crime in this Article.

(b) It shall be a defense to any violation charged under this Article that the alleged violator is either a registered patient as set forth in Section 14(1)(c) of Amendment 20, or a registered primary care-giver as set forth in Section 14(1)(f) of Amendment 20; and

(1) Has in his or her possession a valid unexpired registration card or a copy of the patient's or primary care-giver's application along with proof of the date of submission; and

(2) The use, possession or cultivation of medical marijuana by the registered patient or primary care-giver is in accordance with the provisions of Section 14 of Article XVIII of the Colorado Constitution, Section 25-1.5-106, C.R.S., and the rules of the state health agency.

(c) A patient or primary care-giver may assert an affirmative defense to any alleged violation for use, possession or cultivation of medical marijuana as provided in Section 14(4)(b) of Article XVIII of the Colorado Constitution. As provided in Section 25-1.5-106(14), C.R.S., if a patient or primary care-giver raises such an affirmative defense, confidentiality privileges related to the condition or conditions that were the basis for the recommendation shall be waived. (Ord. 1444 §1, 1993; Ord. 1589, 1999; Ord. 2086 §3, 2011)

Sec. 9-28-80. Offenses relating to marijuana.

(a) Any person who possesses not more than one (1) ounce of marijuana commits a violation of this Code.

(b) Any person who openly and publicly displays, consumes or uses not more than one (1) ounce of marijuana commits a violation of this Code and, upon conviction thereof, shall be punished, at a minimum, by a fine of not less than one hundred dollars ($100.00) and by up to one (1) year in jail.

(c) Transferring or dispensing not more than one (1) ounce of marijuana from one (1) person to another for no consideration shall be deemed possession and not dispensing or sale thereof.

(d) The provisions of this Article shall not apply to any person who possesses, uses, prescribes, dispenses or administers marijuana or marijuana concentrate pursuant to the "Dangerous Drugs Therapeutic Research Act," Part 9 of Article 5 of Title 25, C.R.S., or who possesses, uses, prescribes, dispenses or administers any drug classified under Group C guidelines of the National Cancer Institute, approved by the Federal Food and Drug Administration.

(e) The provisions of this Article shall not apply to any person who possesses, uses, prescribes, dispenses or administers dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product, pursuant to Part 3 of Article 22 of Title 12, C.R.S.

(f) The Municipal Court does not have jurisdiction to hear cases classified as felonies by state statute. Therefore, this Article shall not apply to violations specified as felonies in Section 18-18-406, C.R.S.

(g) Registered patients and primary care-givers are not subject to criminal prosecution under this Article for use, possession or cultivation of medical marijuana or the possession of paraphernalia prohibited in this Article, provided that the same is in accordance with Section 14, Article XVIII of the Colorado Constitution, Section 25-1.5-106(14), C.R.S., and the rules of the state health agency. If the use, possession or cultivation of marijuana or possession of paraphernalia is not in accordance therewith, the patient or primary care-giver may be subject to criminal prosecution for violations of this Article. (Ord. 1444 §1, 1993; Ord. 1589, 1999; Ord. 2086 §4, 2011)

Sec. 9-28-90. Abusing toxic vapors.

(a) No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system. No person shall knowingly possess, buy or use any such substance for the purposes described in this Subsection, nor shall any person knowingly aid any other person to use any such substance for the purposes described in this Subsection. This Subsection shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

(b) For the purposes of this Section, the term *toxic vapors* means the following substances or products containing such substances:

(1) Alcohols, including methyl, isopropyl, propyl or butyl;

(2) Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;

(3) Acetone;

(4) Benzene;

(5) Carbon tetrachloride;

(6) Cyclohexane;

(7) Freons, including Freon 11 and Freon 12;

(8) Hexane;

(9) Methyl ethyl ketone;

(10) Methyl isobutyl ketone;

(11) Naphtha;

(12) Perchlorethylene;

(13) Toluene;

(14) Trichloroethane; or

(15) Xylene.

(c) In a prosecution for a violation of this Article, evidence that a container lists one (1) or more of the substances described in Subsection (b) of this Section as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof. (Ord. 1444 §1, 1993; Ord. 1589, 1999)

Sec. 9-28-100. Affirmative defenses.

Any person charged with a violation of a provision of this Article may assert any affirmative defense set forth in Section 14 of Article XVIII of the State Constitution or Section 25-1.5-106(10), C.R.S. (Ord. 2087 §1, 2011)

Sec. 9-28-110. Prohibited use of marijuana.

(a) The use of medical marijuana contrary to or in violation of the provisions of Section 14 of Article XVIII of the State Constitution, Section 25-1.5-106, C.R.S., and the rules of the State Health Agency is hereby prohibited.

(b) A registered medical marijuana patient or primary caregiver shall not:

(1) Engage in the medical use of marijuana in a way that endangers the health and well-being of another person;

(2) Engage in the medical use of marijuana in plain view of or in a place open to the general public;

(3) Possess medical marijuana or otherwise engage in the use of medical marijuana in or on the grounds of a school or on a school bus; and

(4) Engage in the use of medical marijuana while in a vehicle or motorboat. (Ord. 2087 §1, 2011)

ARTICLE 9-30

Medical Marijuana Center, Optional Premises Cultivation Operations and Medical Marijuana-Infused Products Manufacturer – Prohibited

Sec. 9-30-10. Definitions.

As used in this Article, the following words, terms and phrases shall have the following meanings:

Amendment 20 shall mean Article XVIII, Section 14 of the Colorado Constitution, added to the Colorado Constitution by a statewide voter initiative adopted on November 7, 2000.

Colorado Medical Marijuana Code shall mean Section 12-43.3-101, et seq., C.R.S.

Medical marijuana shall mean marijuana that is grown and sold pursuant to the provisions of the Colorado Medical Marijuana Code and for a purpose authorized by Amendment 20.

Medical marijuana center shall mean a person licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana and medical marijuana-infused products to registered patients or primary care-givers as defined in Amendment 20, but is not a primary care-giver, and which a municipality is authorized to prohibit as a matter of law.

Medical marijuana-infused product shall mean a product infused with medical marijuana that is intended for use or consumption other than by smoking, including, without limitation, edible products, ointments and tinctures.

Medical marijuana-infused products manufacturer shall mean a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business manufacturing medical marijuana-infused products, and which a municipality is authorized to prohibit as a matter of law.

Optional premises cultivation operation shall mean a person licensed pursuant to the Colorado Medical Marijuana Code to grow and cultivate medical marijuana for a purpose authorized by Amendment 20, and which a municipality is authorized to prohibit as a matter of law.

Patient shall have the meaning set forth in Section 14(1)(c) of Amendment 20.

Person shall mean a natural person, partnership, association, company, corporation, limited liability company or other organization or entity, or a manager, agent, owner, director, servant, officer or employee thereof.

Primary care-giver shall have the same meaning as the term "primary care-giver" is given in Section 14(1)(f) of Amendment 20. (Ord. 2086 §2, 2011)

Sec. 9-30-20. Medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers' licenses – prohibited.

(a) The operation of medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers licensed within the corporate limits of the City, which might otherwise be authorized under the Colorado Medical Marijuana Code, are hereby prohibited as authorized and provided in Section 12-43.3-106, C.R.S.

(b) It shall be unlawful and a violation under this Article for any person to establish, operate, continue to operate, cause to be operated or permit to be operated within the corporate limits of the City, and within any area annexed into the City after the effective date of the ordinance codified herein, a facility, business or any other operation requiring a license under the Colorado Medical Marijuana Code to operate as a medical marijuana center or optional premises cultivation operation or as a medical marijuana-infused products manufacturer. (Ord. 2086 §2, 2011)

Sec. 9-30-30. Cultivation and sale of medical marijuana prohibited.

As authorized in Section 12-43.3-103(2)(a), C.R.S., no person shall cultivate or sell medical marijuana within the City's boundaries unless such person does so as a patient or primary care-giver registered in accordance with Section 25-1.5-106, C.R.S. (Ord. 2086 §2, 2011)

Sec. 9-30-40. Patients and primary care-givers.

Nothing in this Article shall be construed to prohibit, regulate or otherwise impair the use, cultivation or possession of medical marijuana by a patient or the cultivation, possession or providing of medical marijuana by a primary care-giver for his or her patients, provided that any such patient or primary care-giver is doing so in accordance with all applicable provisions of Amendment 20; the Colorado Medical Marijuana Code, as amended, Section 25-1.5-106, C.R.S.; and the City's ordinances; and in accordance with any applicable rules and regulations promulgated under state law. (Ord. 2086 §2, 2011)

Sec. 9-30-50. Penalties, nuisance declared.

(a) It is unlawful for any person to violate any of the provisions of this Article. Any such violation is hereby designated a criminal offense, and any person found guilty of violating any of the provisions of this Article shall, upon conviction thereof, be punished by a fine or imprisonment, or both, pursuant to Article 1-24 of this Code. Each day that a violation of any of the provisions of this Article continues to exist shall be deemed a separate and distinct violation.

(b) The conduct of any activity or business in violation of this Article is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the abatement of nuisances prohibited in Article 8-24 of this Code. (Ord. 2086 §2, 2011)

ARTICLE 9-31

Retail Marijuana Establishments Prohibited

Sec. 9-31-10. Findings and legislative intent.

The City Council makes the following legislative findings:

(1) The City Council finds and determines that Article XVIII, Section 16 of the Colorado Constitution specifically authorizes in part that the governing body of a municipality may enact an ordinance to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores.

(2) The City Council finds and determines, after careful consideration of the provisions of Article XVIII, Section 16 of the Colorado Constitution and after evaluating, *inter alia*, the potential secondary impacts associated with the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores, that such land uses have an adverse effect on the health, safety and welfare of the City and the inhabitants thereof.

(3) The City Council therefore finds and determines that, as a matter of the City's local land use and zoning authority as a home rule municipality pursuant to the provisions of Article XX, Section 6 of the Colorado Constitution and consistent with the authorization provided by Article XVIII, Section 16 of the Colorado Constitution, no suitable location exists within the corporate limits of the City for the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores, or the licensing thereof. (Ord. 2156 §1, 2013)

Sec. 9-31-20. Authority.

The City Council hereby finds, determines and declares it has the power and authority to adopt this Article pursuant to:

(1) Article XVIII, Section 16 of the Colorado Constitution;

(2) The authority granted to home rule municipalities by Article XX of the Colorado Constitution;

(3) The powers contained in the City Home Rule Charter; and

(4) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S. (Ord. 2156 §1, 2013)

Sec. 9-31-30. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

Marijuana means all parts of the plant of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including marijuana concentrate. *Marijuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

Marijuana accessories means any equipment, products or materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling or otherwise introducing marijuana into the human body.

Marijuana cultivation facility means an entity licensed to cultivate, prepare and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities and to other marijuana cultivation facilities, but not to consumers.

Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility or a retail marijuana store.

Marijuana product manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments and tinctures.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers. (Ord. 2156 §1, 2013)

Sec. 9-31-40. Marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores prohibited.

It is unlawful for any person to operate, cause to be operated or permit to be operated any marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores within the City, and all such uses are hereby prohibited in any location within the City or within any area hereinafter annexed to the City. (Ord. 2156 §1, 2013)

Sec. 9-31-50. City Clerk, designated authority.

The City Clerk is hereby designated as the officer of the City for the receipt of notifications from the Colorado Department of Revenue of the filing of any notice of intent to apply for a license for a retail marijuana establishment to be located within the City, to notify the Department of the prohibitions as set forth in this Article and to generally communicate with the Department relative to retail marijuana establishments. (Ord. 2156 §1, 2013)

Sec. 9-31-60. Penalties, nuisance declared.

(a) It is unlawful for any person to violate any of the provisions of this Article. Any such violation is hereby designated a criminal offense, and any person found guilty of violating any of the provisions of this Article shall, upon conviction thereof, be punished by a fine or imprisonment, or both, pursuant to Article 1-24 of this Code. Each day that a violation of any of the provisions of this Article continues to exist shall be deemed a separate and distinct violation.

(b) The conduct of any activity or business in violation of this Article is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the abatement of nuisances provided in Article 8-24 of this Code. (Ord. 2156 §1, 2013)

ARTICLE 9-32

Weapons

Sec. 9-32-10. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Authorized persons. Nothing in this Article shall be construed to forbid any peace officer or other City employee duly authorized to carry a firearm, an officer of the state division of wildlife, a member of the armed forces or law enforcement officers of the federal government when engaged in the lawful performance of duty from carrying or wearing such firearms as may be necessary in the proper discharge of his or her duties. Nothing in this Article shall be construed to forbid the employee of any armored car service agency providing money transport services pursuant to a contractual arrangement from carrying or wearing such firearms as may be necessary in the proper discharge of his or her duties, so long as the employee has been duly authorized by his or her employer to carry a firearm and is acting within the course of his or her employment at the time the firearm is being carried or worn.

Concealed handgun means a handgun carried in such a manner so as to be completely concealed from the view of another. Any handgun carried in such a manner as to be visible in whole or in part and for any length of time to another shall be deemed to be open or openly carried.

Deadly weapon means any of the following which, in the manner it is used, is capable of producing death or serious bodily injury: a firearm, loaded or unloaded; knife, dirk or dagger

having a blade greater than three and one-half (3½) inches in length or any knife having an appearance of a pocketknife, the blade of which can be opened by a flick of a button, pressure on the handle or other mechanical device; bludgeon; brass or artificial knuckles of any substances whatsoever; nunchakus; slingshot; razor; throwing stars; or any other weapon.

Firearm means any handgun, automatic, revolver, pistol, rifle, shotgun or other instrument or device capable of or intended to be capable of discharging bullets, cartridges or other explosive devices.

Handgun means a pistol, revolver or other firearm of any description, loaded or unloaded, from which any shot, bullet or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable or magazine breech, does not exceed twelve (12) inches.

Open carry. It shall be unlawful for any person to open or openly carry any firearm in or upon any public building or specific area within the City.

Public building means any structure, facility, site or enclosed area that is owned, operated or leased by the City.

Specific area means all recreational facilities and sports complexes located within the City and owned, operated or leased by the City, including but not limited to swimming pools, tennis courts, skate parks, basketball courts, pedestrian and bicycle paths, public trails of any nature, picnic facilities, lawns, gardens, parks or open space. (Ord. 2131 §1, 2012)

Sec. 9-32-20. Unlawful concealment and display of deadly weapon.

(a) Except as provided in Subsection (b) below, it shall be unlawful for any person to wear under his or her clothes or carry concealed on or about his or her person any illegal or deadly weapon.

(b) It shall be an affirmative defense to an alleged violation of Subsection (a) above if the defendant was:

(1) In compliance with the provisions of Section 9-32-40 below, if applicable;

(2) A person in a private automobile or other means of private conveyance who carries a knife for lawful protection of such person's or another's person or property while traveling;

(3) In his or her own dwelling or place of business or on property owned or under his or her control at the time of the alleged violation;

(4) A person who, at the time of carrying the concealed weapon, held a valid permit to carry such concealed weapon issued pursuant to Section 18-12-105.1, C.R.S., as it existed prior to its repeal or, if the weapon involved was a handgun, held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to Section 12-18-201, et seq., C.R.S.; except that it shall be an offense under this Section if the person was carrying a concealed handgun in violation of the carrying restrictions contained in Section 18-12-214, C.R.S.;

(5) A peace officer, as described in Section 16-2.5-101, C.R.S., or other authorized person when carrying a weapon in conformance with the policy of his or her employer; or

(6) A United States Probation Officer or a United States Pretrial Services Officer while on duty and serving in the State under the authority of rules and regulations promulgated by the Judicial Conference of the United States.

(c) Nothing in this Section shall be construed to allow the carrying of any firearm except in accordance with state and federal law. (Ord. 2131 §1, 2012)

Sec. 9-32-30. Display.

It shall be unlawful for any person to knowingly, recklessly or negligently display, flourish or brandish any illegal or deadly weapon in such manner as to reasonably cause fear of bodily injury to another person. (Ord. 2131 §1, 2012)

Sec. 9-32-40. Lawful possession of a handgun in a motor vehicle.

(a) Without a permit. It shall be lawful for any person to carry, conceal or otherwise possess a handgun while in a private automobile or other means of private conveyance if carrying the handgun for a legal use while traveling, or if engaged in one (1) of the following activities:

(1) Protection of such person's or another person's person or property, while travelling, and the weapon is not an explosive device, incendiary device or a bomb.

(2) While moving personal property, including such weapon, from a former residence to a new residence;

(3) In the case of a knife, if such knife is a household knife, and there is reasonable grounds for a person having and carrying the knife away from the household;

(4) The person is carrying the weapon for hunting or for sporting use of such weapon, including shooting matches or other target shooting or trap or skeet shooting; provided, however, that all such weapons shall be unloaded when carried or transported to or from such hunting trip or place of sporting use; or

(5) When a person is transporting a weapon for display, sale or repair or from a place of display, sale or repair; provided, however, that all such firearms so displayed or transported shall be unloaded at all times.

(b) With a permit. It shall be lawful for any person to carry, conceal or otherwise possess a handgun, whether loaded or unloaded, in a private automobile or other means of private conveyance if the person who, at the time of carrying the handgun, held a valid permit to carry such concealed handgun issued pursuant to Section 18-12-105.1, C.R.S., as it existed prior to its repeal, or held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to Section 18-12-201, et seq., C.R.S.; except that it shall not be lawful if the person was carrying a concealed handgun in violation of the carrying constrictions contained in Section 18-12-214, C.R.S. (Ord. 2131 §1, 2012)

Sec. 9-32-50. Possession of a loaded firearm, other than a handgun, in a motor vehicle.

It is unlawful for any person, except an authorized person, to possess or have under that person's control any firearm, other than a handgun, in or on any motor vehicle unless the chamber of such firearm is unloaded. Any person in possession or in control of a rifle or shotgun in or on a motor vehicle shall allow any peace officer to inspect the chamber of any rifle or shotgun in or on the motor vehicle. For the purposes of this Section, a muzzleloader shall be considered unloaded if it is not primed and, for such purpose, the term *primed* means having a percussion cap on the nipple or flint in the striker and powder in the flash pan. (Ord. 2131 §1, 2012)

Sec. 9-32-60. Firearms on private property.

(a) It shall be unlawful for any person, carrying a firearm, to enter or remain upon any private property of another or any building or property of a commercial establishment when such property, building or establishment is posted with notification that the carrying of firearms is prohibited.

(b) It shall be unlawful for any person, carrying a firearm, to remain upon any private property of another or any building or property of a commercial establishment after such person has been given verbal notice that the carrying of firearms is prohibited on such property, building or establishment.

(c) Possession of a permit issued pursuant to Section 18-12-105.1, C.R.S., as it existed prior to repeal, or possession of a permit or temporary emergency permit issued pursuant to Section 18-12-201, et seq., C.R.S., shall be no defense to a violation of this Section. (Ord. 2131 §1, 2012)

Sec. 9-32-70. Firearms prohibited in or upon public facilities.

(a) The concealed carrying of a handgun in or upon a public facility, room, chamber or designated portion thereof is unlawful when said facility, room, chamber or portion thereof is posted with notification that the carrying of handguns is prohibited and security personnel and electronic screening devices at the entrance to the facility, room, chamber or portion thereof are in attendance and being used to screen all persons entering the facility, room, chamber or portion thereof. Possession of a concealed handgun permit issued pursuant to Section 18-12-105.1, C.R.S., as it existed prior to repeal or possession of a permit or temporary emergency permit issued pursuant to Section 18-12-201, et seq., C.R.S., shall be no defense to a violation of this Section. Security personnel shall require each person carrying any type of handgun, firearm or deadly weapon to leave the same in possession of the security personnel while the person is in the secured facility, room, chamber or portion thereof.

(b) The open carrying of firearms in or upon public facilities or specific areas is unlawful when said facilities or areas are posted with notification that the carrying of firearms is prohibited as authorized and directed by the City Manager.

(c) Nothing in this Section shall be construed to forbid any authorized person from carrying or wearing such weapons and firearms as shall be necessary in the proper discharge of his or her duties.

(d) It shall not be an offense of Subsection (b) above if the person was carrying a concealed handgun and had, at the time of carrying the concealed handgun, a valid permit to carry such concealed handgun issued pursuant to Section 18-12-105.1, C.R.S., as it existed prior to its repeal, or

a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to Section 18-12-201, et seq., C.R.S.; except that it shall be an offense under Subsection (a) above if the person was carrying a concealed handgun in violation of the carrying restrictions contained in Section 18-12-214, C.R.S.

(e) Notwithstanding the possession of a concealed handgun permit issued pursuant to Section 18-12-105.1 C.R.S., as it existed prior to its repeal, or a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to Section 18-12-201, et seq., C.R.S., no person shall carry a concealed or openly carried handgun, firearm or weapon onto the real property of a public or private elementary school, middle school, senior high school or training school or into any improvements used therefor or erected thereon, except if:

(1) The permitted handgun remains in the permittee's vehicle and, if the permittee is not in the vehicle, the permitted handgun is located in a compartment within the vehicle and the vehicle is locked;

(2) The permitted handgun is carried by a permittee who is employed or retained by contract by the school or school district as a school security officer while on duty;

(3) The permitted handgun is to be exhibited, used or part of a school-sanctioned class or event and the same is unloaded; or

(4) The property is owned by a school district, but undeveloped, and lawfully used for shooting sports. (Ord. 2131 §1, 2012; Ord. 2157 §2, 2013)

Sec. 9-32-80. Reserved.

Sec. 9-32-90. Disposition of confiscated weapons.

(a) It shall be the duty of every police officer, upon making any arrest and taking any handgun, firearm or deadly weapon from the offender, to deliver the same to the custody of the Chief of Police, to be held by the same until the final determination of the prosecution for the offense. Upon the finding of guilt, the Municipal Judge shall order forfeiture of such weapon or instrument to the City.

(b) Any such handgun, firearm or deadly weapon or instrument so forfeited shall remain in the custody of the Chief of Police until such weapon or instrument is duly disposed of.

(c) The Chief of Police shall, on January 1 of each year, or more often at the sole discretion of the Chief of Police, account to the Municipal Judge for all weapons or instruments confiscated and ordered forfeited pursuant to this Article. The Chief of Police shall then make final disposition of the dangerous weapons as, in his or her sole discretion, is for the benefit of the health, safety and welfare of the citizens of the City. (Ord. 2131 §1, 2012)

Sec. 9-32-100. Discharging gun or bow.

It is unlawful for any person, except a law enforcement officer in the performance of his or her duties, to fire or discharge a revolver or pistol, of any description, shotgun, rifle, air gun, gas-operated gun, spring gun or any bow made for the purpose of throwing or projecting missiles of any kind by

any means whatsoever within the City limits, whether such instrument is called by any name set forth herein; provided that nothing in this Section shall prevent the use of any such weapon in a City-approved shooting gallery. (Ord. 2132 §1, 2012)

ARTICLE 9-36

Public Safety Radio Amplification Systems (PSRS)

Sec. 9-36-10. Purpose.

The purpose of the Public Safety Radio Amplification Systems (PSRS) shall be to provide minimum standards to ensure a reasonable degree of reliability for emergency services communications from within certain buildings and structures within the City, and to and from emergency communication dispatch centers, in cases of emergency. Except as otherwise provided in this Article, it is the responsibility of the emergency service providers within the City to deliver the communications signal to, and receive the signal from, such buildings or structures. For purposes of this Article, *emergency service providers* within the City shall mean the Brighton Police Department and Greater Brighton Fire Protection District (Fire District), although additional providers may be designated by the City Council from time to time. (Ord. 1840 §1, 2005)

Sec. 9-36-20. Scope.

The provisions of this Article shall apply to:

(1) New buildings and structures of Type I, Type II or Type III construction greater than fifty thousand (50,000) square feet, or additions or modifications to such buildings or structures that result in the building or structure being greater than fifty thousand (50,000) square feet.

(2) All basements over ten thousand (10,000) square feet with a design occupant load greater than fifty (50), regardless of the kind or type of occupancy.

(3) Existing buildings and structures of any size or construction type that have been determined by the Police Chief and the Fire Chief to lack adequate radio coverage for emergency service providers, and that said lack of adequate radio coverage either constitutes a special hazard to occupants or emergency responders, or would otherwise likely result in the unduly difficult conduct of emergency communications and operations.

(4) For purposes of this Section, firewalls shall not be used to define separate buildings. (Ord. 1840 §1, 2005)

Sec. 9-36-30. Building radio coverage.

Except as may be otherwise provided in this Article, no person shall erect, construct or modify any building or structure within the City, or any part thereof, or cause or permit the same to be done, which fails to provide adequate radio coverage for emergency service providers within the City.

(1) After a building permit has been issued for a building or structure within the City, upon request by the owner or the owner's agent, the Police Department and/or the Fire District shall, within ten (10) to fourteen (14) business days thereafter, conduct such measurements and perform such tests as may be necessary to identify the frequency range or ranges that must be supported by or within said building or structure such as will provide adequate radio coverage for emergency service providers.

(2) In the event that an emergency service provider modifies its communications equipment in any way that impairs such provider's ability to communicate with an existing system installed, tested and approved in accordance with this Article, such emergency service provider shall be responsible for all reasonable costs associated with reestablishing reliable emergency radio communication within the affected building or structure.

(3) Adequate radio coverage standards for emergency service providers require, at a minimum:

a. That on each floor of the building or structure, eighty-five percent (85%) of valid frequency or radio communications tests conducted in accordance with this Article result in reliable and intelligible two-way communications between the appropriate dispatch center and the individual who conducts testing for radio frequency and communications within the building or structure; and

b. That one hundred percent (100%) of valid frequency or radio communications tests conducted in accordance with this Article result in reliable and intelligible two-way communications between the appropriate dispatch center and the individual who conducts testing for radio frequency and communications at the following particular locations within a building or structure:

1. Throughout vertical exit enclosures, including fire stairs and horizontal exit passageways;

2. In fire command centers, if provided;

3. In police station or substation facilities, if provided.

(4) FCC authorization: If amplification is used in connection with a system required to be installed in a building or structure pursuant to this Article, then the building owner shall obtain all necessary FCC authorizations and/or permits therefor, and a copy of all such FCC authorizations or permits shall be provided to the City prior to use of the system. (Ord. 1840 §1, 2005)

Sec. 9-36-40. Enhanced amplification systems.

(a) When buildings or structures are required by this Article to provide additional facilities, communications systems or related appurtenances in order to achieve the adequate signal strength required by this Article, such buildings or structures may be equipped with any of the following systems or combination thereof in order to achieve the required adequate radio coverage: radiating cable systems; internal multiple antenna systems with an acceptable frequency range as established by the testing standards and procedures in this Article; additional amplification systems as needed;

voting receiver systems; or any other similar system approved by the City such as will result in the production of adequate signal strength.

(b) If any part of the installed system contains a hard-wired electrically powered component, the system shall also contain an independent redundant power source and shall be capable of operation on a battery and/or generator system for a period of at least four (4) hours without external power input or maintenance. The independent battery system shall automatically charge itself during normal operations. (Ord. 1840 §1, 2005)

Sec. 9-36-50. Testing procedures – standards and guidelines.

(a) Measurements and tests shall be performed using the following standards and guidelines:

(1) Each measurement or test required by this Article shall be performed from inside the building or structure, using a portable radio device such as is generally used by emergency service providers operating within the City, which providers minimally include the Police Department and the Fire District. Any digital, non-simplex channel that is programmed into such radio device may be used during testing; the same channel may, but need not be, used for all tests.

(2) Portable radios used in testing shall be fully charged and shall not be displaying "low battery" indications.

(3) During radio transmissions associated with testing, the portable radio shall be held approximately two (2) inches from the mouth of the tester, at approximately a forty-five-degree angle with the tester's face, with the built-in microphone and speaker directed towards the tester's mouth, and with the antenna in a vertical orientation above the radio. The antenna of each radio shall be mounted directly on the top of the radio body/case. The built-in microphone shall be used for all testing; shoulder or other attached microphones/headsets may be used, but shall not be required, for such testing.

(4) The tester shall orient himself or herself so as to be facing towards the exterior wall of the building nearest to the point of the test.

(5) Both initial and annual tests shall be conducted by persons regularly employed by the emergency service providers who are trained and experienced in the use of all radio devices, testing equipment and emergency communication protocols. At least one (1) tester from the Police Department and one (1) tester from the Fire District shall conduct initial and annual tests unless alternate arrangements are approved by both providers; provided that all tests shall be conducted either by the Police Department, Fire District or both.

(6) Each tester shall be responsible for determining whether or not radio transmissions received in the building or structure are reliable and intelligible; the dispatcher at the emergency agency dispatch center shall be responsible for determining whether or not radio transmissions received in the dispatch center are reliable and intelligible. An unintelligible, broken or intermittent message transmission constitutes a failure of the test at the specific location being tested.

(7) The individual tester in the building or structure shall initiate each test by attempting to transmit a message from within the building or structure to the dispatch center. Failure to receive a prompt response from the dispatch center after normal transmission of a message constitutes a failure of the test at the specific location being tested.

(8) The tester in the building or structure shall exercise professional judgment and reasonable discretion in the conduct of all tests. If the tester reasonably believes that a particular test is not valid or reliable (e.g., is flawed by human error), then the results of that test may be discarded and the test shall be repeated according to the standards and procedures of this Article and established protocols of emergency communication.

(b) Initial tests: Initial tests shall be conducted prior to the issuance of a certificate of occupancy in the case of a new or newly remodeled building or structure; and in the case of existing buildings or structures that are subject to this Article, within a commercially reasonable time not to exceed ninety (90) days from the effective date of the initial ordinance codified herein.

(1) Each floor of the building or structure shall be divided into one-hundred-foot square grids, and testing shall be performed at the center of each grid. The one-hundred-foot grids shall then be divided into twenty-five-foot square grids, and testing shall again be performed at the center of each twenty-five-foot grid, such that five (5) tests are completed for every one-hundred-foot grid square. At least one (1) additional test shall be conducted at the center of every room in the building or structure and in the areas specifically identified in Section 9-36-30(3)b. The size or number of the grids, tests or testing areas may be further refined upon the recommendation of any tester in areas, for example, where displays, equipment, inventory or any other material or obstruction may significantly affect communications or adversely attenuate or interfere with radio signals.

(2) Tests shall also be performed on every staircase landing within all vertical exit enclosures.

(3) If the initial test fails to demonstrate adequate system performance, no certificate of occupancy shall issue unless and until the owner of the building or structure has remedied the problem within a commercially reasonable time not to exceed thirty (30) days and has repaired, restored or replaced the system and had it re-tested and approved in a manner consistent with this Article.

(c) Annual tests:

(1) Tests shall be conducted annually by either the Fire District or the Police Department, or both, according to the provisions of this Section and this Article. If, during subsequent annual tests, communications performance appears to have measurably degraded in comparison with previous test results, or if valid testing otherwise fails to demonstrate adequate system performance, then the owner of the building or structure shall remedy the problem and within a commercially reasonable time not to exceed thirty (30) days shall repair, restore or replace the system and have it re-tested and approved in a manner consistent with this Article.

(2) If such degradation of the system is due to intervening additions or remodeling of the building or structure such as require a building permit then, prior to receiving a certificate of occupancy, the owner of the building or structure shall remedy the problem and restore the communications system in a manner consistent with the original approval criteria of this Article in order to receive such certificate of occupancy.

(3) Any system degradation or failure not related to the performance of the owner's existing on-site system shall be the responsibility of the appropriate emergency service providers.

(4) Each emergency service provider conducting testing pursuant to this Article shall keep written records or log books of such test results. (Ord. 1840 §1, 2005)